

1 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION
3

IN RE: NATIONAL)
4 PRESCRIPTION) MDL No. 2804
OPIATE LITIGATION)
5 _____) Case No.
) 1:17-MD-2804
6)
THIS DOCUMENT RELATES) Hon. Dan A.
7 TO ALL CASES) Polster
8

TUESDAY, JANUARY 15, 2019

9
HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
10 CONFIDENTIALITY REVIEW

11 - - -

12 Videotaped deposition of Karen
13 Harper, held at the offices of STINSON
14 LEONARD STREET LLP, 7700 Forsyth Boulevard,
15 Suite 1000, St. Louis, Missouri, commencing
16 at 9:09 a.m., on the above date, before
17 Carrie A. Campbell, Registered Diplomate
18 Reporter and Certified Realtime Reporter.

19

20

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22 - - -

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<p>1 VIDEOGRAPHER: We are now on 08:49:49 2 the record. My name is James Arndt. 09:08:57 3 I'm a videographer for Golkow 09:09:00 4 Litigation Services. 09:09:01 5 Today's date is January 15th of 09:09:01 6 2019, and the time is 9:09 a.m. 09:09:05 7 This video deposition is being 09:09:07 8 held in St. Louis, Missouri, in the 09:09:09 9 matter of the National Prescription 09:09:11 10 Opiate Litigation for the United 09:09:14 11 States District Court for the Northern 09:09:15 12 District of Ohio, Eastern Division. 09:09:17 13 The deponent is Karen Harper. 09:09:18 14 Will counsel please identify 09:09:20 15 themselves. 09:09:22 16 MR. KO: Good morning. David 09:09:23 17 Ko, Keller Rohrbach, on behalf of 09:09:25 18 plaintiffs. 09:09:27 19 MR. LOESER: Derek Loeser from 09:09:28 20 Keller Rohrbach for the plaintiffs. 09:09:28 21 MS. HERZFELD: Tricia Herzfeld, 09:09:30 22 Branstetter, Branch & Jennings, for 09:09:31 23 the Tennessee plaintiffs. 09:09:31 24 MS. FIX MEYER: Julie Fix 09:09:34 25 Meyer, Armstrong Teasdale, for 09:09:34</p>	<p>1 KAREN HARPER, 2 of lawful age, having been first duly sworn 3 to tell the truth, the whole truth and 4 nothing but the truth, deposes and says on 5 behalf of the Plaintiffs, as follows: 6 7 MR. KO: Before we get started, 09:10:30 8 I just wanted to note for the record 09:10:32 9 that yesterday evening Mallinckrodt's 09:10:33 10 counsel had provided some documents, 09:10:35 11 another production of documents, 09:10:38 12 including some documents apparently 09:10:39 13 from Ms. Harper's custodial file. It 09:10:40 14 appears to be a fairly substantial 09:10:44 15 production. 09:10:46 16 We didn't get a chance to 09:10:47 17 review those, so I just wanted to note 09:10:48 18 for the record that we reserve the 09:10:49 19 right to reopen this deposition based 09:10:50 20 on that review. 09:10:52 21 MR. O'CONNOR: And we believe 09:10:52 22 the documents we produced don't 09:10:53 23 prejudice the plaintiffs in any way, 09:10:55 24 and I'm happy to discuss that further, 09:10:59 25 but do disagree with your 09:11:00</p>

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<p>1 characterization. 09:11:01</p> <p>2 DIRECT EXAMINATION 09:11:03</p> <p>3 QUESTIONS BY MR. KO: 09:11:04</p> <p>4 Q. Good morning. We met earlier, 09:11:05</p> <p>5 just a moment ago. 09:11:06</p> <p>6 Could you please state and 09:11:07</p> <p>7 spell your name for the record? 09:11:09</p> <p>8 A. Yes. Karen Harper, K-a-r-e-n, 09:11:09</p> <p>9 H-a-r-p-e-r. 09:11:12</p> <p>10 Q. Ms. Harper, where do you 09:11:14</p> <p>11 currently reside? 09:11:16</p> <p>12 A. St. Louis County, Missouri. 09:11:17</p> <p>13 Q. Okay. And I know that you have 09:11:19</p> <p>14 had your deposition taken at least once 09:11:21</p> <p>15 before in connection with a matter involving 09:11:23</p> <p>16 Island Drug Pharmacy. 09:11:28</p> <p>17 Have you had your deposition 09:11:29</p> <p>18 taken at any other time other than that 09:11:30</p> <p>19 instance? 09:11:32</p> <p>20 A. Earlier in my life, before I 09:11:32</p> <p>21 was an employee of Mallinckrodt. 09:11:35</p> <p>22 Q. Okay. So how many times have 09:11:37</p> <p>23 you been deposed? 09:11:38</p> <p>24 A. Two -- twice. 09:11:38</p> <p>25 Q. Okay. So you understand 09:11:40</p>	<p>1 Okay? 09:12:23</p> <p>2 A. Yes. 09:12:24</p> <p>3 Q. I think we're here for a fairly 09:12:25</p> <p>4 long time today, so to the extent you need 09:12:27</p> <p>5 breaks throughout the day, please feel free 09:12:30</p> <p>6 to ask and I'll do my best to accommodate. 09:12:33</p> <p>7 Okay? 09:12:35</p> <p>8 A. Thank you. 09:12:36</p> <p>9 Q. Ms. Harper, is there anything 09:12:36</p> <p>10 that you can think of today that will prevent 09:12:41</p> <p>11 you from testifying truthfully and honestly? 09:12:43</p> <p>12 A. No. 09:12:46</p> <p>13 Q. Great. 09:12:46</p> <p>14 Ms. Harper, what did you do to 09:12:47</p> <p>15 prepare for this deposition today? 09:12:51</p> <p>16 A. I met with my attorneys. 09:12:52</p> <p>17 Q. Okay. And who are they? 09:12:54</p> <p>18 A. Ropes & Gray. 09:12:55</p> <p>19 Q. Okay. And Mr. O'Connor and 09:12:58</p> <p>20 Mr. Davison sitting here today, are those the 09:13:00</p> <p>21 two individuals that you met with? 09:13:02</p> <p>22 A. Yes, among others. 09:13:03</p> <p>23 Q. Okay. And how many attorneys 09:13:04</p> <p>24 did you meet with? 09:13:06</p> <p>25 A. At least one other. 09:13:06</p>
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<p>1 probably some of the ground rules, but I just 09:11:42</p> <p>2 want to remind you of a few that are 09:11:44</p> <p>3 important to me today. 09:11:47</p> <p>4 The court reporters have the 09:11:48</p> <p>5 most important job here in transcribing 09:11:49</p> <p>6 everything that we're saying, so it's 09:11:52</p> <p>7 important that we don't talk over one 09:11:53</p> <p>8 another. So please wait until I finish my 09:11:54</p> <p>9 question before you move on to your response, 09:11:56</p> <p>10 and likewise, I'll wait until you finish your 09:11:58</p> <p>11 question {sic} before I move on to my next 09:12:00</p> <p>12 question. 09:12:03</p> <p>13 Does that sound good? 09:12:03</p> <p>14 A. Yes. 09:12:04</p> <p>15 Q. And to the extent I ask a yes 09:12:05</p> <p>16 or no question, I would ask that you actually 09:12:07</p> <p>17 in fact answer yes or no, if that's your 09:12:11</p> <p>18 response, rather than shaking your head or 09:12:11</p> <p>19 nodding your head. 09:12:15</p> <p>20 A. Understood. 09:12:16</p> <p>21 Q. Okay. And from time to time 09:12:16</p> <p>22 counsel at this table may object to my 09:12:17</p> <p>23 questioning, but unless you get a clear 09:12:19</p> <p>24 instruction not to respond, I would ask that 09:12:21</p> <p>25 you respond to my question. 09:12:23</p>	<p>1 Q. Okay. And how many times did 09:13:08</p> <p>2 you meet? 09:13:09</p> <p>3 A. Five times. 09:13:09</p> <p>4 Q. Okay. So you met for five 09:13:10</p> <p>5 different days or five different sessions? 09:13:13</p> <p>6 A. Five different sessions. 09:13:14</p> <p>7 Q. Okay. And how many hours total 09:13:16</p> <p>8 would you say that would be? 09:13:17</p> <p>9 A. The first two sessions were 09:13:18</p> <p>10 eight -- two eight-hour days, so 16 and 16, 09:13:21</p> <p>11 32. Then we had an eight-hour day, 40, and 09:13:26</p> <p>12 another two eight-hour days. So 56 hours. 09:13:30</p> <p>13 Q. Sounds like a lot of 09:13:34</p> <p>14 preparation. 09:13:36</p> <p>15 Other than your outside 09:13:37</p> <p>16 counsel, or other than Ropes & Gray, were 09:13:42</p> <p>17 there any other people present during your 09:13:44</p> <p>18 meetings? 09:13:49</p> <p>19 A. No. 09:13:50</p> <p>20 Q. Okay. And in those meetings, 09:13:50</p> <p>21 did you review any documents? 09:13:53</p> <p>22 A. Yes. 09:13:54</p> <p>23 Q. Okay. And did -- were those 09:13:55</p> <p>24 documents selected by counsel? 09:13:58</p> <p>25 A. Yes. 09:14:01</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. And did you provide any 09:14:02 2 documents in any of these meetings? 09:14:04 3 A. Not in those meetings. 09:14:06 4 Q. Okay. In preparation for this 09:14:09 5 deposition today, have you spoken with any 09:14:15 6 current or former employees of Mallinckrodt? 09:14:18 7 A. Only to the extent that I 09:14:20 8 needed to be absent from work. 09:14:23 9 Q. Okay. Are you aware that other 09:14:26 10 former and current employees of Mallinckrodt 09:14:31 11 have been deposed? 09:14:32 12 A. Yes. 09:14:33 13 Q. Okay. Have you spoken with any 09:14:34 14 of those deponents? 09:14:36 15 A. No, sir. 09:14:37 16 Q. Okay. You know who Bill 09:14:38 17 Ratliff is, right? 09:14:41 18 A. Yes. 09:14:42 19 Q. Have you spoken with him about 09:14:42 20 this deposition at all? 09:14:44 21 A. No. 09:14:44 22 Q. Okay. Do you know who John 09:14:45 23 Gillies is? 09:14:48 24 A. Yes. 09:14:48 25 Q. Have you spoken with him? 09:14:48</p>	<p style="text-align: right;">Page 20</p> <p>1 specialty advertising company. 09:15:44 2 Q. Okay. And what did you do 09:15:45 3 there? 09:15:46 4 A. Clerical. 09:15:46 5 Q. Okay. When did you first start 09:15:47 6 working at Mallinckrodt? 09:15:49 7 A. In March of 1975. 09:15:50 8 Q. Okay. So there was a brief 09:15:53 9 period of about approximately one year 09:15:54 10 between when you ceased going to community 09:15:56 11 college and when you started working at 09:15:58 12 Mallinckrodt? 09:16:00 13 A. Yes. 09:16:00 14 Q. Okay. And what was your first 09:16:00 15 job at Mallinckrodt? 09:16:02 16 A. Clerk typist. 09:16:02 17 Q. Okay. And clerk typist for 09:16:05 18 what division or department? 09:16:08 19 A. Purchasing group in the 09:16:09 20 corporate area. 09:16:12 21 Q. Okay. And how long did you do 09:16:12 22 that? 09:16:15 23 A. Approximately one year. 09:16:15 24 Q. Okay. I may want to walk 09:16:18 25 through each position you had at 09:16:24</p>
<p style="text-align: right;">Page 19</p> <p>1 A. No. 09:14:50 2 Q. Okay. Ms. Harper, where did 09:14:53 3 you go to school? I mean, college, excuse 09:14:55 4 me. 09:14:58 5 A. I only have a couple of years 09:14:58 6 partial college credits, and so that was at 09:15:00 7 community college district, St. Louis, 09:15:03 8 Missouri. 09:15:06 9 Q. Okay. And what was the name of 09:15:06 10 that school? 09:15:07 11 A. Meramec Community College. 09:15:07 12 Q. Okay. And did you actually 09:15:09 13 obtain a degree? 09:15:11 14 A. I did not. 09:15:11 15 Q. Okay. And where did you -- by 09:15:12 16 the way, what year did you stop going to 09:15:18 17 school? 09:15:20 18 A. So I graduated from high school 09:15:20 19 and took intermittent college classes but 09:15:22 20 never achieved a degree. So I graduated from 09:15:26 21 high school in 1974. 09:15:28 22 Q. Okay. And after you stopped 09:15:30 23 going to community college, where did you 09:15:34 24 first work? 09:15:35 25 A. Goldman and Gibson. It was a 09:15:36</p>	<p style="text-align: right;">Page 21</p> <p>1 Mallinckrodt, but why don't we try this way. 09:16:25 2 When did you first become 09:16:28 3 senior manager of controlled substance 09:16:30 4 compliance? 09:16:32 5 A. I don't remember the year. 09:16:33 6 Q. Okay. Do you remember if it 09:16:35 7 was the late '70s or the early '80s? 09:16:36 8 A. I'm sorry, I don't remember the 09:16:41 9 year. 09:16:42 10 Q. Okay. And when I say 09:16:42 11 "controlled substance compliance," it's my 09:16:43 12 understanding that the group was actually 09:16:44 13 called DEA compliance at the time. 09:16:46 14 A. Correct. 09:16:48 15 Q. Does that comport with your 09:16:49 16 understanding? 09:16:50 17 A. Yes. Yes. 09:16:50 18 Q. And so you have no recollection 09:16:51 19 of when you became senior manager of DEA 09:16:54 20 compliance? 09:16:56 21 A. I have recollection, but I 09:16:56 22 can't remember the year. I'm sorry. 09:17:00 23 Q. Okay. And what is your 09:17:02 24 recollection? Is it approximately -- I mean, 09:17:03 25 are we talking the 1990s that you became the 09:17:05</p>

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<p>1 senior manager or is it the '80s? 09:17:08</p> <p>2 A. It would have been in the -- in 09:17:10</p> <p>3 the -- after 2000. 09:17:13</p> <p>4 Q. After 2000? 09:17:14</p> <p>5 A. Yes. 09:17:15</p> <p>6 Q. Okay. So from the period 09:17:16</p> <p>7 between when you became senior manager of 09:17:17</p> <p>8 controlled substance compliance, or DEA 09:17:21</p> <p>9 compliance, and when you were first started 09:17:23</p> <p>10 at Mallinckrodt, there was approximately 09:17:26</p> <p>11 25 years that had passed? 09:17:28</p> <p>12 A. Yes. 09:17:29</p> <p>13 Q. Okay. And how was it that you 09:17:29</p> <p>14 became senior manager of that group after 09:17:38</p> <p>15 starting as a clerical typist? 09:17:42</p> <p>16 A. I moved into senior manager 09:17:45</p> <p>17 after I went to the controlled substances 09:17:48</p> <p>18 compliance group. I was a coordinator in 09:17:52</p> <p>19 that department, then became manager and then 09:17:55</p> <p>20 became senior manager. 09:17:58</p> <p>21 Q. Okay. And when did you become 09:17:59</p> <p>22 coordinator of the DEA compliance/CSC? 09:18:04</p> <p>23 A. I'm not certain of the year. 09:18:07</p> <p>24 2001, approximate. 09:18:11</p> <p>25 Q. Okay. That's -- I believe 09:18:13</p>	<p>1 A. Yes. 09:18:52</p> <p>2 Q. Okay. And by the way, have you 09:18:55</p> <p>3 ever worked for the DEA? 09:18:59</p> <p>4 A. No. 09:19:00</p> <p>5 Q. Have you ever worked for the 09:19:01</p> <p>6 government? 09:19:02</p> <p>7 A. No. 09:19:02</p> <p>8 Q. Have you worked in any -- for 09:19:03</p> <p>9 any employer that -- whose responsibility it 09:19:07</p> <p>10 was to perform diversion-type activities on 09:19:11</p> <p>11 controlled substances? 09:19:16</p> <p>12 A. No. 09:19:16</p> <p>13 Q. Okay. Other than the one year 09:19:17</p> <p>14 between finishing your -- or other than the 09:19:19</p> <p>15 one year between when you stopped going to 09:19:23</p> <p>16 community college and when you started 09:19:26</p> <p>17 working at Mallinckrodt, fair to say that you 09:19:28</p> <p>18 had no other employment? 09:19:30</p> <p>19 In other words, from 1975 to 09:19:33</p> <p>20 present, you have always worked at 09:19:34</p> <p>21 Mallinckrodt, correct? 09:19:35</p> <p>22 A. That is correct. 09:19:36</p> <p>23 Q. Okay. At the time you joined 09:19:37</p> <p>24 in 2001, the approximate 2001 time period, 09:19:43</p> <p>25 when you joined the DEA compliance team, 09:19:46</p>
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<p>1 that's when you said you became senior 09:18:15</p> <p>2 manager. 09:18:17</p> <p>3 I was asking when you first 09:18:18</p> <p>4 became a coordinator, as you described 09:18:19</p> <p>5 earlier. Approximately when was that? 09:18:21</p> <p>6 A. No, sir, I'm sorry. I think I 09:18:22</p> <p>7 said I became senior manager after year 2000, 09:18:24</p> <p>8 but I couldn't remember the year. I 09:18:27</p> <p>9 apologize. 09:18:30</p> <p>10 Q. I got it. 09:18:30</p> <p>11 So around 2001 is when you 09:18:30</p> <p>12 became a coordinator -- 09:18:32</p> <p>13 A. Yes. 09:18:35</p> <p>14 Q. -- at the control -- 09:18:35</p> <p>15 A. Yes. 09:18:36</p> <p>16 Q. -- for the DEA compliance 09:18:37</p> <p>17 group? 09:18:38</p> <p>18 A. Yes. Yes. 09:18:38</p> <p>19 Q. That's helpful. Thank you. 09:18:39</p> <p>20 And at the time you became 09:18:40</p> <p>21 involved in the DEA compliance group, were 09:18:45</p> <p>22 you aware that Mallinckrodt was manufacturing 09:18:48</p> <p>23 controlled substances? 09:18:50</p> <p>24 A. Yes. 09:18:50</p> <p>25 Q. Including prescription opioids? 09:18:51</p>	<p>1 approximately how large was that team? 09:19:49</p> <p>2 A. Three or four people. 09:19:51</p> <p>3 Q. Okay. And who were those three 09:19:53</p> <p>4 or four people? 09:19:54</p> <p>5 A. My manager and two other 09:19:54</p> <p>6 compliance coordinators. 09:20:00</p> <p>7 Q. Okay. Who was your manager at 09:20:01</p> <p>8 that time? 09:20:03</p> <p>9 A. The gentleman's name is Jay 09:20:03</p> <p>10 Foushee. 09:20:07</p> <p>11 Q. Okay. 09:20:07</p> <p>12 A. Would you like for me to spell 09:20:07</p> <p>13 that? 09:20:09</p> <p>14 Q. That's okay. We can get it 09:20:09</p> <p>15 later. 09:20:11</p> <p>16 A. All right. 09:20:11</p> <p>17 Q. And so you reported to him? 09:20:12</p> <p>18 A. Yes. 09:20:14</p> <p>19 Q. Okay. And you said two other 09:20:15</p> <p>20 compliance managers. Who -- 09:20:16</p> <p>21 A. Compliance coordinators. 09:20:19</p> <p>22 Q. Coordinators, excuse me. 09:20:20</p> <p>23 A. Yes, sir. 09:20:20</p> <p>24 Q. Thank you. 09:20:21</p> <p>25 Who were they? 09:20:23</p>

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<p>1 A. Mary Lewis and a gentleman 09:20:23 2 named Lee Nelson. 09:20:25 3 Q. And did the composition or the 09:20:27 4 size of this team change over time? 09:20:34 5 A. Yes. 09:20:37 6 Q. Okay. Did it expand, I assume? 09:20:39 7 A. Yes. 09:20:41 8 Q. And when did you -- when do you 09:20:41 9 recall when it first expanded beyond the 09:20:46 10 four -- three or four people you've 09:20:48 11 mentioned? 09:20:52 12 A. After a few years went by -- 09:20:52 13 and I'm sorry, I don't know the year -- the 09:20:55 14 company purchased another -- an additional 09:20:56 15 controlled substances facility in Hobart, 09:21:00 16 New York, and the department grew after that. 09:21:04 17 Q. Okay. Did it -- and how -- to 09:21:07 18 what extent did it grow? 09:21:10 19 A. There are two persons who were 09:21:12 20 in the DEA compliance group at Hobart, 09:21:14 21 New York, as an isolated department, and we 09:21:17 22 became one group. And there was another 09:21:21 23 person who was in the group at our Webster 09:21:24 24 Groves narcotics manufacturing facility, so 09:21:28 25 our group became united as one corporate 09:21:29</p>	<p>1 to guard against diversion, but, yes. 09:22:13 2 Q. Okay. And are you familiar 09:22:16 3 that under the -- do you mind if I call the 09:22:20 4 Controlled Substances Act the CSA? 09:22:24 5 A. I don't mind. 09:22:25 6 Q. Okay. Are you familiar that 09:22:26 7 pursuant to the CSA that registrants have a 09:22:27 8 duty to monitor and implement a system to 09:22:30 9 identify suspicious orders? 09:22:32 10 MR. O'CONNOR: Object to form. 09:22:33 11 THE WITNESS: Yes, I'm aware. 09:22:35 12 QUESTIONS BY MR. KO: 09:22:36 13 Q. Okay. And these obligations 09:22:37 14 have existed since the time that CSA was 09:22:39 15 enacted, correct? 09:22:41 16 MR. O'CONNOR: Object to form. 09:22:42 17 THE WITNESS: I don't know the 09:22:44 18 date of the CSA versus the creation of 09:22:47 19 CFR 21. 09:22:53 20 QUESTIONS BY MR. KO: 09:22:55 21 Q. Okay. And by CFR 21, are you 09:22:55 22 referring to the -- what's commonly referred 09:22:57 23 to the regs that are interpreting the CSA? 09:22:59 24 A. Yes. 09:23:04 25 Q. Okay. Regardless of when they 09:23:04</p>
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<p>1 department, if you will. 09:21:33 2 Q. Okay. So fair to say it 09:21:34 3 doubled in size? Your group -- 09:21:37 4 A. Yes. 09:21:39 5 Q. -- became seven or eight 09:21:39 6 people? 09:21:41 7 A. Yes. 09:21:41 8 Q. Okay. At any time that you 09:21:42 9 were involved in the DEA compliance group, 09:21:44 10 was the group ever comprised of more than ten 09:21:47 11 individuals? 09:21:51 12 A. No. 09:21:51 13 Q. Okay. It was always 09:21:52 14 approximately anywhere from three to eight 09:21:53 15 people? 09:21:55 16 A. Yes. 09:21:55 17 Q. Okay. Ms. Harper, are you 09:21:55 18 familiar with the Controlled Substances Act? 09:21:59 19 A. Yes. 09:22:00 20 Q. And are you familiar that 09:22:01 21 pursuant to Controlled Substances Act that 09:22:03 22 registrants have a fundamental duty to 09:22:05 23 maintain effective controls against 09:22:13 24 diversion? 09:22:10 25 A. Yes, I believe the language is 09:22:10</p>	<p>1 were enacted, you understood at the time that 09:23:06 2 you joined the DEA compliance group in 2001 09:23:07 3 that the CSA required registrants to design 09:23:10 4 and implement a system to identify suspicious 09:23:15 5 orders; is that correct? 09:23:19 6 A. Yes. 09:23:19 7 Q. Okay. What was your 09:23:21 8 compensation when you first became a 09:23:24 9 coordinator at -- in the DEA compliance group 09:23:27 10 in 2001? 09:23:30 11 A. I don't know. 09:23:30 12 Q. Okay. Can you give us an 09:23:32 13 approximation? 09:23:34 14 A. I'm sorry, I really can't. 09:23:35 15 Q. Was it less than \$50,000? 09:23:36 16 A. I honestly don't know. I can't 09:23:37 17 remember, I'm sorry. 09:23:40 18 Q. Okay. Was it less than 09:23:41 19 \$25,000? 09:23:43 20 A. I'm sorry, I can't remember. 09:23:43 21 Q. All right. What was your 09:23:45 22 compensation when you became senior manager 09:23:47 23 of DEA compliance? 09:23:49 24 A. I can't remember my salary over 09:23:50 25 the years. 09:23:52</p>

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1 Q. Okay. Do you have an 09:23:54
 2 approximate recollection of how much you 09:23:55
 3 made? 09:23:57
 4 A. No, sir. 09:23:57
 5 Q. Okay. Do you recall if it was 09:23:59
 6 \$75,000 or more or above? 09:24:01
 7 A. No, sir, I don't recall. 09:24:03
 8 Q. Okay. Do you know what your 09:24:04
 9 salary is currently? 09:24:09
 10 A. Yes. 09:24:10
 11 Q. Okay. And you're currently 09:24:13
 12 director of controlled substance compliance, 09:24:15
 13 correct? 09:24:18
 14 A. Yes. 09:24:19
 15 Q. And what is your salary 09:24:19
 16 currently? 09:24:21
 17 A. It's -- I'm going to give you 09:24:21
 18 two numbers because I get that mixed up as 09:24:24
 19 well, I'm sorry. It's either [REDACTED] or 09:24:27
 20 [REDACTED] per year. 09:24:31
 21 Q. [REDACTED] 09:24:32
 22 A. [REDACTED] 09:24:34
 23 Q. [REDACTED] 09:24:35
 24 [REDACTED] 09:24:39
 25 A. [REDACTED] 09:24:40

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1 [REDACTED] 09:24:42
 2 Q. And when did you start 09:24:42
 3 [REDACTED]? 09:24:44
 4 A. I don't recall the year. 09:24:44
 5 Q. Okay. And do you have any 09:24:45
 6 other -- do you have a retirement package at 09:24:49
 7 all? 09:24:51
 8 A. Yes. 09:24:52
 9 Q. Okay. And what does that 09:24:53
 10 consist of? 09:24:54
 11 A. It's 401(k). 09:24:55
 12 Q. Okay. Other than the 401(k) 09:24:56
 13 and [REDACTED], do you 09:24:58
 14 have any other additional compensation in 09:25:01
 15 addition to your salary? 09:25:04
 16 A. Yes. 09:25:05
 17 Q. And what does that consist of? 09:25:07
 18 A. A bonus, an annual bonus. 09:25:08
 19 Q. Okay. And approximately how 09:25:10
 20 much is that? 09:25:11
 21 A. It's -- it's a percent of the 09:25:11
 22 salary based upon the performance of the 09:25:14
 23 company. 09:25:17
 24 Q. Okay. And what's the 09:25:17
 25 approximate percentage that you received last 09:25:18

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1 year? 09:25:20
 2 A. It's 20 percent. 09:25:20
 3 Q. Okay. And has that -- over the 09:25:23
 4 time that you've either been senior manager 09:25:27
 5 or director of controlled substance 09:25:28
 6 compliance, has it been that approximate 09:25:30
 7 percentage? 09:25:32
 8 A. Yes. 09:25:32
 9 Q. Okay. Great. 09:25:34
 10 Ms. Harper, have you reviewed 09:25:35
 11 any court documents or pleadings in this 09:25:39
 12 case? 09:25:42
 13 A. I'm not certain. 09:25:42
 14 Q. Okay. Are you aware that 09:25:46
 15 there's a case currently pending in Ohio, 09:25:49
 16 generally titled the national opioid 09:25:54
 17 litigation? 09:25:56
 18 A. Yes. 09:25:56
 19 Q. And you're aware that there are 09:25:57
 20 approximately 1500 jurisdictions that have 09:25:58
 21 filed suit against various manufacturers, 09:26:02
 22 distributors and retail pharmacies of 09:26:07
 23 prescription opioids? 09:26:08
 24 A. Yes. 09:26:08
 25 Q. Okay. And are you aware that 09:26:08

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1 these jurisdictions have alleged that these 09:26:09
 2 entities are responsible for the opioid 09:26:12
 3 crisis? 09:26:14
 4 A. Yes. 09:26:15
 5 Q. Okay. By the way, are you 09:26:16
 6 aware -- strike that. 09:26:20
 7 Are you generally aware that 09:26:20
 8 these jurisdictions are alleging that these 09:26:25
 9 entities should be responsible for the costs 09:26:28
 10 that these entities have incurred as a result 09:26:30
 11 of responding to the opioid crisis? 09:26:33
 12 A. Yes, in general. 09:26:35
 13 Q. Okay. And are you aware of any 09:26:36
 14 complaints that have actually been filed 09:26:39
 15 against your company? 09:26:42
 16 A. No. 09:26:43
 17 Q. Okay. So you haven't read any 09:26:46
 18 of the complaints that have been filed 09:26:47
 19 against Mallinckrodt? 09:26:50
 20 A. I've read pieces of the MDL, 09:26:51
 21 but nothing specific to Mallinckrodt. 09:26:55
 22 Q. Okay. When you say "pieces of 09:26:56
 23 the MDL," what do you mean? 09:26:59
 24 A. The multi-district litigation. 09:27:01
 25 Q. And particularly when you say 09:27:03

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1 "pieces," I'm just trying to get an 09:27:04
2 understanding of what you've reviewed. 09:27:06
3 A. So we receive a pharma news 09:27:07
4 brief every single day, and so there will be 09:27:10
5 excerpts from the various matters related to 09:27:13
6 the MDL, Judge Polster's rulings, et cetera. 09:27:16
7 Q. I see. 09:27:20
8 So in other words, you're 09:27:20
9 getting and receiving and reviewing these 09:27:22
10 news updates about the MDL? 09:27:26
11 A. Correct. 09:27:28
12 Q. Okay. Great. 09:27:29
13 Ms. Harper, do you agree that 09:27:30
14 there's an opioid epidemic in this country? 09:27:35
15 MR. O'CONNOR: Object to form. 09:27:37
16 THE WITNESS: Yes, I do. 09:27:38
17 QUESTIONS BY MR. KO: 09:27:39
18 Q. Okay. And are you aware that 09:27:41
19 there's been an opioid epidemic in this 09:27:43
20 country for quite some time? 09:27:45
21 MR. O'CONNOR: Object to form. 09:27:47
22 THE WITNESS: I don't know, 09:27:47
23 sir, what you mean by "quite some 09:27:50
24 time." 09:27:51
25 Can you -- I don't know. 09:27:52

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1 QUESTIONS BY MR. KO: 09:27:53
2 Q. When did you first start 09:27:54
3 believing that there was an opioid epidemic 09:27:57
4 in this country? 09:28:02
5 MR. O'CONNOR: Object to form. 09:28:03
6 THE WITNESS: Approximately 09:28:04
7 mid-2000s. 09:28:05
8 QUESTIONS BY MR. KO: 09:28:06
9 Q. Mid-2000s? 09:28:07
10 A. Yes, sir. 09:28:08
11 Q. Okay. Are you familiar with 09:28:08
12 Mallinckrodt's market share of prescription 09:28:10
13 opioids? 09:28:13
14 A. On some products, yes. 09:28:13
15 Q. Okay. With respect to the 09:28:18
16 generic product line of Mallinckrodt, are you 09:28:20
17 aware of Mallinckrodt's market share in the 09:28:24
18 generic line of business? 09:28:27
19 A. Not overall, no, sir. 09:28:29
20 Q. Okay. Are you aware that 09:28:31
21 Mallinckrodt has been either the number one 09:28:34
22 or number two in terms of market share 09:28:36
23 generic manufacturer of prescription opioids 09:28:40
24 for the last 20 or so years? 09:28:42
25 MR. O'CONNOR: Object to form. 09:28:43

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1 THE WITNESS: That is not 09:28:44
2 the sta -- pardon me, the statistic I 09:28:46
3 have heard. 09:28:48
4 QUESTIONS BY MR. KO: 09:28:48
5 Q. Okay. What is the statistic 09:28:49
6 that you have heard? 09:28:50
7 A. That we're in the top five -- 09:28:50
8 Q. Okay. 09:28:50
9 A. -- of the share of generic 09:28:53
10 suppliers. 09:28:55
11 Q. Okay. And generic suppliers of 09:28:55
12 prescription opioids in particular, correct? 09:28:58
13 A. Yes. 09:28:59
14 Q. Okay. And currently, do you 09:29:00
15 understand that Mallinckrodt has the number 09:29:05
16 one market share of generic prescription 09:29:07
17 opioids? 09:29:10
18 MR. O'CONNOR: Object to form. 09:29:10
19 THE WITNESS: I don't -- I'm 09:29:11
20 sorry. I don't know. I don't know 09:29:12
21 our current market position. 09:29:13
22 QUESTIONS BY MR. KO: 09:29:14
23 Q. Okay. During your time as 09:29:14
24 director or senior manager of controlled 09:29:18
25 substance compliance, have you ever inquired 09:29:21

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1 as to the market share of Mallinckrodt with 09:29:23
2 respect to prescription opioids? 09:29:26
3 A. On certain specific drug 09:29:28
4 substances, yes. 09:29:31
5 Q. And which specific drug 09:29:32
6 substances? 09:29:34
7 A. So I'll use the example 09:29:34
8 methylphenidate. When we're applying for 09:29:40
9 quota, if there is an intent or if we have a 09:29:43
10 belief that we will grow our market share, I 09:29:46
11 need to learn the existing market share that 09:29:48
12 Mallinckrodt holds. 09:29:51
13 Q. Okay. And when over the last 09:29:52
14 20 or so years have you inquired into that? 09:29:57
15 Has that been inquiries that 09:30:03
16 you've made on a fairly regular basis? 09:30:04
17 MR. O'CONNOR: Object to form. 09:30:07
18 THE WITNESS: Yes, in 09:30:07
19 coordination with quota requests to 09:30:08
20 DEA, yes. 09:30:09
21 QUESTIONS BY MR. KO: 09:30:10
22 Q. And those quota requests on an 09:30:10
23 annual basis, correct? 09:30:13
24 A. Quota is granted on an annual 09:30:13
25 basis, but the requests are an iterative 09:30:16

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1 process throughout a calendar year. 09:30:19
2 Q. Okay. And so you would say 09:30:20
3 that you have regularly -- I just want to 09:30:22
4 make sure I understand when you -- when you 09:30:25
5 have inquired into understanding 09:30:28
6 Mallinckrodt's market share, and you've said 09:30:30
7 on a fairly consistent basis, correct? 09:30:32
8 A. Yes. 09:30:34
9 Q. Okay. And consistent means 09:30:36
10 throughout the year, as you've described, in 09:30:40
11 connection with issues when dealing with 09:30:42
12 quota requests to the DEA? 09:30:45
13 MR. O'CONNOR: Object to form. 09:30:47
14 THE WITNESS: Yes, throughout 09:30:47
15 the year, but on certain drug 09:30:49
16 substances at different times, sir. 09:30:51
17 QUESTIONS BY MR. KO: 09:30:52
18 Q. Okay. Going back to your 09:30:53
19 current position as director of controlled 09:30:57
20 substance compliance -- 09:31:01
21 A. Sorry. 09:31:02
22 Q. That's okay. 09:31:03
23 -- when did you become 09:31:05
24 director? 09:31:07
25 A. Within the last six months. 09:31:08

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1 Q. Okay. So fairly recently? 09:31:11
2 A. Yes, sir. 09:31:12
3 Q. And before that, you were 09:31:13
4 senior manager of controlled substance 09:31:15
5 compliance, correct? 09:31:17
6 A. Yes. 09:31:18
7 Q. Okay. And so was this 09:31:18
8 considered a promotion? 09:31:20
9 A. Yes. 09:31:21
10 Q. Okay. And who did you replace, 09:31:22
11 if at all? If anyone? 09:31:25
12 A. No one. 09:31:27
13 Q. So was this position created 09:31:28
14 for you? 09:31:30
15 A. Yes. 09:31:30
16 Q. Okay. And what were the 09:31:31
17 circumstances of creating this position? 09:31:34
18 A. It was an evolution, if you 09:31:36
19 will, of my -- my existing job 09:31:39
20 responsibilities that merited a different 09:31:43
21 title. 09:31:46
22 Q. Okay. And now that you're 09:31:46
23 director, do you have people that report to 09:31:55
24 you? 09:31:56
25 A. Yes. 09:31:56

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1 Q. And who reports to you? 09:31:57
2 A. I have two direct reports. 09:31:58
3 They are managers of controlled substances 09:32:01
4 compliance. 09:32:04
5 Q. And who are they? 09:32:07
6 A. There's a gentleman named -- 09:32:07
7 his name is Dave Hunter. 09:32:10
8 Q. And who is the other person? 09:32:14
9 You said there were two? 09:32:17
10 A. Eileen Spaulding. 09:32:17
11 Q. Okay. And you have worked with 09:32:19
12 Mr. Hunter and Ms. Spaulding before, correct? 09:32:21
13 A. Correct. 09:32:24
14 Q. And you worked with them in 09:32:25
15 connection with the controlled substance 09:32:26
16 compliance team throughout the time you were 09:32:30
17 senior manager, correct? 09:32:31
18 A. Correct. 09:32:32
19 (Mallinckrodt-Harper Exhibit 1 09:32:40
20 marked for identification.) 09:32:40
21 QUESTIONS BY MR. KO: 09:32:40
22 Q. I'd like to hand you an 09:32:41
23 exhibit. Go ahead and mark this as Harper 09:32:42
24 Exhibit 1. 09:32:56
25 And there's no Bates on this, 09:33:09

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1 but this -- this appears to be a printout of 09:33:12
2 your LinkedIn profile; is that correct? 09:33:14
3 A. Yes. 09:33:16
4 Q. And does that appear to be an 09:33:16
5 accurate reflection or copy of your LinkedIn 09:33:19
6 profile? 09:33:23
7 A. Yes. 09:33:23
8 Q. And I don't want to spend too 09:33:23
9 much time on it, but I do want to ask you a 09:33:25
10 question about your involvement in the 09:33:27
11 National Association of Drug Diversion 09:33:33
12 Investigators. 09:33:36
13 Do you see that reference? I 09:33:37
14 believe that's on the next page. 09:33:38
15 A. Yes, I see it. Yes. 09:33:43
16 Q. And it indicates that you've 09:33:44
17 been a member of the NADDI since 2013? 09:33:46
18 A. Yes. 09:33:50
19 Q. What is the NADDI? 09:33:51
20 A. It's a group -- it's a 09:33:54
21 consortium of industry, law enforcement 09:34:00
22 leaders that assemble to discuss the issues 09:34:05
23 around diversion. 09:34:10
24 Q. Okay. And diversion of 09:34:12
25 controlled substances? 09:34:14

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1 A. Yes. 09:34:15

2 Q. And did you have any 09:34:20

3 involvement in the NADDI prior to 2013? 09:34:21

4 A. Yes. 09:34:23

5 Q. Okay. And what was that 09:34:28

6 involvement? 09:34:29

7 A. We received drug feed -- pardon 09:34:29

8 me, information feed entitled "RX News." 09:34:32

9 Q. From the NADDI? 09:34:37

10 A. Yes, sir. 09:34:40

11 Q. Other than receiving news from 09:34:41

12 the NADDI, did you have any other type of 09:34:45

13 involvement with them? 09:34:47

14 A. No. 09:34:48

15 Q. Okay. Were you ever -- the 09:34:50

16 first time you became a member of the NADDI 09:34:55

17 was in 2013? 09:34:57

18 A. Yes. 09:34:58

19 Q. Okay. Do you have any 09:35:00

20 involvement with any type of diversion 09:35:02

21 organization prior to 2013? 09:35:05

22 A. Yes. 09:35:06

23 Q. And which one is that? 09:35:08

24 A. The group name is Midwest 09:35:09

25 Controlled Substances Compliance Discussion 09:35:09

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1 Group. 09:35:18

2 Q. Okay. And I believe I've seen 09:35:18

3 plenty of references to that group in the 09:35:21

4 documents, but is that -- correct me if I'm 09:35:23

5 wrong, but is that a type of industry working 09:35:27

6 group? 09:35:28

7 A. That's correct. 09:35:29

8 Q. In other words, there were 09:35:29

9 other manufacturers and distributors that 09:35:30

10 were part of that group? 09:35:33

11 A. No distributors. 09:35:33

12 Q. Okay. So manufacturers of 09:35:35

13 prescription opioids were in that group; is 09:35:36

14 that correct? 09:35:38

15 A. Yes. 09:35:38

16 Q. Okay. Other than that group, 09:35:39

17 any other organization that you were involved 09:35:46

18 in? 09:35:47

19 A. No. 09:35:48

20 Q. Okay. Are you familiar with 09:35:48

21 the National Association of Controlled 09:35:51

22 Substances Authorities? 09:35:53

23 A. Oh, yes. 09:35:53

24 I beg your pardon. 09:35:55

25 Q. Okay. So you had involvement 09:35:55

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1 with them? 09:35:56

2 A. I'd like to clarify my previous 09:35:57

3 answer. 09:36:00

4 Q. Sure. 09:36:00

5 A. I have been a member of 09:36:00

6 National Association of Controlled Substances 09:36:02

7 Authorities. 09:36:05

8 Q. Okay. Since when? 09:36:05

9 A. I don't recall the date. 09:36:06

10 Approximately December 2013 forward. 09:36:11

11 Q. Okay. So about the same time 09:36:13

12 you joined the NADDI? 09:36:14

13 A. Yes, sir. 09:36:15

14 Q. Okay. Did you have any 09:36:16

15 involvement with this National Association of 09:36:17

16 Controlled Substances Authorities prior to 09:36:24

17 2013? 09:36:24

18 A. Not that I recall. 09:36:25

19 Q. Okay. So fair to say other 09:36:28

20 than the Midwest Substance Compliance working 09:36:33

21 group, prior to 2013 you had no other 09:36:37

22 involvement with any other diversion-type 09:36:43

23 group? 09:36:45

24 A. Not that I recall. 09:36:46

25 Q. Okay. Did you ever consider 09:36:48

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1 membership or joining any such groups? 09:36:55

2 A. No. 09:36:57

3 Q. Okay. Why not? 09:36:58

4 A. My job was full time and my 09:36:59

5 husband was ill, so I did not participate in 09:37:08

6 extracurricular activities, if you will. 09:37:12

7 Q. Okay. And let's take a step 09:37:14

8 back. 09:37:21

9 When you became -- I understand 09:37:21

10 you don't recall when you became senior 09:37:24

11 manager of controlled substance compliance, 09:37:26

12 but turning back to the first page of your 09:37:28

13 LinkedIn profile, it indicates that -- or at 09:37:30

14 least the profile indicates that you have 09:37:34

15 been senior manager for 43 years. 09:37:35

16 Is that incorrect? 09:37:37

17 A. That's incorrect. 09:37:38

18 Q. Okay. It's more accurate to 09:37:39

19 say that you've been senior manager for some 09:37:41

20 period less than 17 years when considering 09:37:44

21 that you joined the controlled substance 09:37:46

22 compliance group in 2001? 09:37:48

23 A. Yes. 09:37:49

24 Q. Okay. And when you first 09:37:50

25 became senior manager of the controlled 09:37:55

<p style="text-align: right;">Page 46</p> <p>1 substance compliance group, what were your 09:37:57 2 general responsibilities? 09:38:00 3 A. The same as they were as 09:38:01 4 manager, except with one exception. I had -- 09:38:06 5 when the company met with DEA, I was present 09:38:12 6 at those meetings where I had not been 09:38:16 7 necessarily in my previous position. 09:38:19 8 Q. Okay. So in your previous 09:38:21 9 position, you had never communicated -- or 09:38:22 10 never met with the DEA, but when you became 09:38:26 11 senior manager, you became more involved and 09:38:29 12 met actually with the DEA? 09:38:32 13 MR. O'CONNOR: Object to form. 09:38:33 14 THE WITNESS: So I'd like to 09:38:34 15 clarify, please. 09:38:35 16 QUESTIONS BY MR. KO: 09:38:36 17 Q. Sure. 09:38:36 18 A. All through my career in 09:38:37 19 controlled substances compliance, I 09:38:40 20 communicated with DEA in the course of 09:38:41 21 inspections and on quota requests. 09:38:46 22 Q. Okay. And so how did that 09:38:51 23 change when you became senior manager? 09:38:54 24 A. So there were times when we met 09:38:56 25 with DEA in Washington, DC, and I then would 09:38:58</p>	<p style="text-align: right;">Page 48</p> <p>1 QUESTIONS BY MR. KO: 09:40:46 2 Q. So when you say you had primary 09:40:46 3 responsibilities associated with St. Louis 09:40:49 4 and Hobart facilities, what exactly do you 09:40:51 5 mean? 09:40:54 6 A. Prior to that, the controlled 09:40:54 7 substances compliance group at each facility 09:40:59 8 operated reporting to the management of their 09:41:02 9 separate sites. And so eventually the group 09:41:07 10 became one, and my position provided a 09:41:11 11 corporate oversight for all the facilities 09:41:14 12 that had controlled substances compliance 09:41:17 13 personnel. 09:41:19 14 Q. Okay. And when you became 09:41:19 15 senior manager, those responsibilities 09:41:22 16 continued, correct? 09:41:24 17 A. Yes. 09:41:25 18 Q. Okay. And as you said, you 09:41:26 19 started interacting with the DEA on a more 09:41:28 20 regular basis. 09:41:31 21 Do you recall when you first 09:41:32 22 started communicating with the DEA more 09:41:35 23 frequently? 09:41:37 24 MR. O'CONNOR: Object to form. 09:41:38 25 THE WITNESS: I don't know the 09:41:38</p>
<p style="text-align: right;">Page 47</p> <p>1 participate in those meetings. 09:39:05 2 Q. I see. 09:39:07 3 And a moment ago when you said 09:39:08 4 that the only thing that really changed was 09:39:16 5 your interactions with the DEA relative to 09:39:19 6 when you were a manager, tell -- please 09:39:22 7 describe what your responsibilities were then 09:39:25 8 as a manager of the controlled substance 09:39:27 9 compliance group. 09:39:31 10 A. As a manager of the controlled 09:39:31 11 substances compliance group, I had primary 09:39:33 12 responsibilities associated with the 09:39:38 13 St. Louis plant function in the beginning. 09:39:40 14 And then as time went on, we acquired the 09:39:44 15 Hobart, New York, facility, and they came in 09:39:48 16 as part of our group. 09:39:53 17 MR. KO: Sorry, do you mind if 09:40:15 18 we go off the record for just a 09:40:17 19 second? 09:40:18 20 VIDEOGRAPHER: We're going off 09:40:19 21 the record at 9:40 a.m. 09:40:19 22 (Off the record at 9:40 a.m.) 09:40:25 23 VIDEOGRAPHER: We are back on 09:40:38 24 the record at 9:40 a.m. 09:40:44 25</p>	<p style="text-align: right;">Page 49</p> <p>1 year. Well, it was when I became 09:41:41 2 senior manager, but I don't know that 09:41:44 3 year, I'm sorry. 09:41:45 4 QUESTIONS BY MR. KO: 09:41:45 5 Q. Okay. Real briefly turning 09:41:45 6 back to your membership in the NADDI, are you 09:41:50 7 aware that they conduct trainings on topics 09:41:54 8 such as diversion? 09:41:58 9 A. Yes. 09:42:00 10 Q. Okay. Did you ever attend any 09:42:00 11 of those trainings? 09:42:01 12 A. Yes. 09:42:02 13 Q. Did you ever attend those 09:42:03 14 trainings before 2013? 09:42:04 15 A. I don't think so, but I do not 09:42:06 16 know. 09:42:09 17 Q. Okay. Prior to 2013, did you 09:42:09 18 ever attend any type of training related to 09:42:12 19 diversion? 09:42:16 20 A. Yes. 09:42:16 21 Q. Okay. And what type of 09:42:17 22 trainings? 09:42:18 23 A. So there were DEA conferences 09:42:19 24 for industry. 09:42:22 25 Q. Uh-huh. And -- 09:42:26</p>

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1 A. And -- 09:42:26
2 Q. Go ahead. Sorry. 09:42:27
3 A. I apologize. 09:42:27
4 Q. That's okay. 09:42:28
5 A. They're private industry 09:42:29
6 conferences, not -- so they were hosted by 09:42:33
7 other than DEA. 09:42:40
8 Q. Sure. 09:42:41
9 Similar to the Midwest 09:42:42
10 substance compliance group you were referring 09:42:44
11 to, or something separate? 09:42:45
12 A. Something separate. 09:42:46
13 Q. Okay. And these were put on 09:42:47
14 by, as you said, private entities? 09:42:50
15 A. Yes. 09:42:52
16 Q. Okay. And in the -- from the 09:42:53
17 2001 to 2013 time period, how frequently did 09:42:58
18 you attend these trainings? 09:43:02
19 A. Approximately one per year. 09:43:03
20 Q. One per year. Okay. 09:43:07
21 And the DEA conferences, do you 09:43:08
22 recall going to those on an annual basis or 09:43:10
23 was that less frequent than an annual basis? 09:43:12
24 A. When they were offered, there 09:43:16
25 was a period of time they weren't offered on 09:43:19

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1 an annual basis. But, yes, when they were 09:43:22
2 offered, I would attend, yes. 09:43:23
3 Q. Okay. And do you recall 09:43:25
4 attending a DEA conference in the fall 09:43:27
5 of 2008? 09:43:32
6 A. I'm so sorry, I'm not good on 09:43:32
7 my years. 09:43:37
8 Q. Sure. 09:43:37
9 A. I can't place the fall of 2008 09:43:37
10 and a conference at that time. 09:43:40
11 Q. That's fine. We can get to 09:43:40
12 some documents -- 09:43:42
13 A. Okay. 09:43:42
14 Q. -- that will hopefully refresh 09:43:42
15 your recollection later. 09:43:46
16 A. All right. 09:43:47
17 Q. Do you maintain relationships 09:43:48
18 with any other individuals who have similar 09:43:49
19 jobs as you do for other entities? 09:43:52
20 A. Yes. 09:43:52
21 Q. Which individuals and for what 09:44:02
22 entities do they work for? 09:44:04
23 A. So there's a director of 09:44:05
24 controlled substances compliance at Teva 09:44:12
25 Pharmaceuticals. 09:44:15

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1 Q. Uh-huh. 09:44:15
2 A. Director of controlled 09:44:16
3 substances compliance at Noramco, and 09:44:18
4 representatives -- and I don't know their 09:44:29
5 exact titles -- Actavis and Watson. So those 09:44:30
6 are the ones that come to mind. 09:44:35
7 Q. Okay. And the director of 09:44:38
8 Teva, who is she or he? 09:44:42
9 A. Her name is Colleen McGinn. 09:44:44
10 Q. And how long have you known 09:44:47
11 her? 09:44:49
12 A. Since I joined the controlled 09:44:49
13 substances compliance group. 09:44:52
14 Q. In 2001? 09:44:52
15 A. Yes. 09:44:56
16 Q. Okay. And did you speak with 09:44:57
17 her about diversion-type activities? 09:44:58
18 MR. O'CONNOR: Object to form. 09:45:02
19 THE WITNESS: Yes. 09:45:03
20 QUESTIONS BY MR. KO: 09:45:03
21 Q. And how frequent? 09:45:04
22 A. Intermittently. I don't know 09:45:05
23 the frequency. 09:45:09
24 Q. Okay. Are you aware of Federal 09:45:09
25 Register notices? 09:45:21

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1 A. Yes. 09:45:22
2 Q. Did you regularly review them 09:45:22
3 during your time in the DEA compliance group? 09:45:23
4 A. Yes. 09:45:26
5 MR. O'CONNOR: Object to form. 09:45:26
6 THE WITNESS: Yes. 09:45:28
7 QUESTIONS BY MR. KO: 09:45:28
8 Q. How frequent would you say you 09:45:28
9 reviewed those? 09:45:30
10 A. I or someone in my group 09:45:31
11 monitored the Register every single day. 09:45:37
12 Q. Okay. 09:45:40
13 A. For DEA notices. 09:45:41
14 Q. I see. 09:45:43
15 And when did you start doing 09:45:43
16 that? 09:45:45
17 A. I don't recall the year. It -- 09:45:46
18 I don't recall the year. 09:45:49
19 Q. And would you say it was your 09:45:50
20 responsibility to review those notices? 09:45:54
21 A. Initially, yes. 09:45:57
22 Q. Okay. And when did -- and I 09:45:58
23 assume you don't do that anymore if you said 09:46:04
24 "initially"? 09:46:07
25 A. It depends on the nature of the 09:46:08

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1 notice that we're antici -- if we're 09:46:09
2 anticipating pivotal Federal Register Notice 09:46:10
3 about quota or our DEA registration, I 09:46:12
4 continue to monitor them, but other -- other 09:46:16
5 folks within my team monitor them on a daily 09:46:18
6 basis. 09:46:21
7 Q. Okay. And who would be those 09:46:22
8 individuals? 09:46:24
9 A. The gentleman's name is Dave 09:46:25
10 Hunter. He's the manager at the St. Louis 09:46:29
11 plant. 09:46:31
12 Q. And he also, as you said 09:46:32
13 before, reports to you directly right now? 09:46:37
14 A. Yes. 09:46:39
15 Q. Are you aware of reviewing any 09:46:42
16 Federal Register Notices in the mid-2000s? 09:46:44
17 A. I'm certain -- I'm not certain 09:46:47
18 because I'm mixed up on my years. 09:46:54
19 Q. Sure. 09:46:56
20 But -- so I guess I'm trying to 09:46:56
21 get an understanding of when you started 09:46:58
22 reviewing these Federal Register Notices. 09:47:01
23 A. Certainly that's helpful. 09:47:03
24 When I joined the controlled 09:47:05
25 substances compliance group. 09:47:08

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1 Q. Okay. Again, we'll get to some 09:47:08
2 of those in a moment. 09:47:14
3 A. Okay. 09:47:15
4 Q. Now, when you were in the DEA 09:47:16
5 compliance group, did you become aware of DEA 09:47:25
6 actions and investigations against major 09:47:29
7 distributors? 09:47:33
8 A. Yes. 09:47:33
9 Q. And those major distributors 09:47:34
10 are ABC, Cardinal and McKesson? 09:47:35
11 A. Yes. 09:47:38
12 Q. And did you review the details 09:47:38
13 of these investigations or DEA actions when 09:47:42
14 you became aware of them? 09:47:48
15 MR. O'CONNOR: Object to form. 09:47:48
16 THE WITNESS: Not on a detailed 09:47:49
17 level all the time, but at a high 09:47:53
18 level, yes. 09:47:55
19 QUESTIONS BY MR. KO: 09:47:56
20 Q. Okay. Would it be fair to say 09:47:56
21 that these settlements and DEA actions of the 09:47:58
22 distributors caught your attention in 09:48:01
23 mid-2000 time period? 09:48:04
24 MR. O'CONNOR: Object to form. 09:48:04
25

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1 QUESTIONS BY MR. KO: 09:48:05
2 Q. The mid-2000s? 09:48:06
3 A. Yes. 09:48:07
4 Q. Okay. And would it also be 09:48:07
5 fair to say that up to that point, DEA 09:48:11
6 actions were against small or mid-sized 09:48:15
7 distributors related to their diversion-type 09:48:23
8 activities? 09:48:24
9 A. I can't answer that question. 09:48:24
10 I don't know. 09:48:26
11 Q. Now, at some point did you also 09:48:26
12 become aware of an action involving Purdue? 09:48:31
13 MR. O'CONNOR: Object to form. 09:48:36
14 THE WITNESS: Yes. 09:48:37
15 QUESTIONS BY MR. KO: 09:48:38
16 Q. In particular, did you ever 09:48:40
17 become aware of the Purdue consent decree in 09:48:41
18 2007? 09:48:45
19 A. Yes. 09:48:45
20 Q. And are you aware that that 09:48:45
21 investigation revolved around Purdue's 09:48:50
22 manufacturing, promotion and advertising 09:48:54
23 activities of OxyContin? 09:48:56
24 A. Yes. 09:48:57
25 Q. Okay. And at the time you 09:48:59

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1 became aware of that consent decree, I assume 09:49:04
2 you're also aware that Mallinckrodt was 09:49:08
3 manufacturing a generic form of OxyContin? 09:49:10
4 MR. O'CONNOR: Object to form. 09:49:12
5 THE WITNESS: I don't know the 09:49:12
6 timing of when we entered the market 09:49:16
7 for OxyContin -- or, I'm sorry, the 09:49:18
8 generic oxycodone, so I don't know 09:49:22
9 exactly the timing relative to the 09:49:23
10 Purdue matter. 09:49:25
11 QUESTIONS BY MR. KO: 09:49:26
12 Q. Okay. So you are aware that 09:49:26
13 Mallinckrodt has manufactured oxycodone, 09:49:28
14 correct? 09:49:31
15 A. Yes. 09:49:31
16 Q. And oxycodone, generally 09:49:31
17 speaking, is a generic form of a prescription 09:49:34
18 opioid? 09:49:36
19 A. Oxycodone is the name of the 09:49:38
20 molecule, so, yes, it's -- yes, oxycodone is 09:49:39
21 manufactured into the generic, yes. 09:49:43
22 Q. Okay. And you're also aware 09:49:46
23 that Mallinckrodt manufactured various dosage 09:49:48
24 strengths of oxycodone, correct? 09:49:53
25 A. Yes. 09:49:54

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1 Q. Including oxy 15 milligrams and 09:49:55
2 oxy 30 milligrams, correct? 09:49:58
3 A. Yes, in the IR release form, 09:49:59
4 yes. 09:50:03
5 Q. And by "IR" you mean immediate 09:50:03
6 release, correct? 09:50:05
7 A. Yes, sir. 09:50:05
8 Q. Now, one of your primary 09:50:06
9 responsibilities as senior manager of 09:50:28
10 controlled substance compliance was to design 09:50:31
11 and implement a system to identify suspicious 09:50:35
12 orders, correct? 09:50:37
13 MR. O'CONNOR: Object to form. 09:50:37
14 THE WITNESS: We already had a 09:50:39
15 system in place. 09:50:42
16 QUESTIONS BY MR. KO: 09:50:43
17 Q. Okay. So when you say "we 09:50:43
18 already had a system in place," first of all, 09:50:44
19 when -- what time period are you talking 09:50:48
20 about right now? 09:50:49
21 A. All the way back to my days 09:50:50
22 before controlled substances compliance, I 09:50:55
23 was aware that we had a system in place 09:50:58
24 designed to detect orders of unusual pattern, 09:51:02
25 size and frequency. 09:51:05

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1 Q. Okay. And what did that 09:51:07
2 system -- what was your understanding of what 09:51:09
3 that system consisted of? 09:51:11
4 A. There was a algorithm in -- 09:51:14
5 programmed by IT into our order entry system 09:51:20
6 that would flag orders for further review. 09:51:26
7 Q. Okay. Other than that 09:51:29
8 algorithm, were there any other elements of 09:51:32
9 that system? 09:51:35
10 A. Yes, quite a few others. 09:51:36
11 Q. Okay. And what did those 09:51:39
12 consist of? 09:51:41
13 A. So we had commercial 09:51:42
14 representative -- national account managers 09:51:46
15 that were our eyes and ears and boots on the 09:51:49
16 ground at the customer accounts. We trained 09:51:51
17 them to be vigilant for any potential sign -- 09:51:54
18 red flags that could be indicative of 09:51:59
19 diversion as they visited customers. 09:52:01
20 May I go on, please? 09:52:05
21 Q. Yeah. 09:52:06
22 A. We have customer service 09:52:07
23 representatives who are veteran in the 09:52:08
24 business, and they were in general familiar 09:52:10
25 with customers' order patterns, and so they 09:52:13

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1 had responsibility, if they saw anything that 09:52:20
2 appeared to be unusual to them, to escalate 09:52:22
3 to their manager. 09:52:24
4 We took precautions to make 09:52:26
5 certain that every single order we shipped 09:52:28
6 was to a valid DEA registration, every order 09:52:30
7 for Schedule II drugs was -- that we received 09:52:35
8 a 222 form that was filled out correctly, and 09:52:39
9 that the order -- the address on the 222 09:52:42
10 forms coincided exactly with the ship to 09:52:45
11 address in our company's order management 09:52:48
12 system. 09:52:51
13 Q. Okay. And I want to get an 09:52:52
14 understanding of when these elements were in 09:52:53
15 place, because I've reviewed a lot of 09:52:57
16 documents in this case and I've been able to 09:53:00
17 determine -- or at least from my 09:53:02
18 interpretation I've been able to see some of 09:53:04
19 these things that you have discussed during 09:53:07
20 certain time periods. But I want to 09:53:08
21 understand what you said a moment ago when 09:53:10
22 you said that Mallinckrodt always had a 09:53:14
23 system. 09:53:15
24 Do you recall that testimony? 09:53:15
25 A. Yes, I do. 09:53:17

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1 Q. Are these things that you're 09:53:18
2 describing, are you testifying that 09:53:20
3 Mallinckrodt always had all these elements in 09:53:21
4 connection with the suspicious order 09:53:26
5 monitoring program? 09:53:29
6 MR. O'CONNOR: Object to form. 09:53:29
7 THE WITNESS: There's one that 09:53:30
8 I'm not certain of, but all the other 09:53:35
9 elements, yes, have been in place 09:53:37
10 since I became aware all the way back 09:53:40
11 to my days in manufacturing and within 09:53:42
12 the scope of DEA audits. 09:53:44
13 QUESTIONS BY MR. KO: 09:53:46
14 Q. Okay. So prior to, for 09:53:46
15 example, 2003 -- 09:53:54
16 A. Yes. 09:53:54
17 Q. -- there was -- I just want to 09:53:55
18 make sure I understand. 09:53:58
19 A. Certainly. 09:53:58
20 Q. The suspicious order monitoring 09:53:59
21 program, as you understand it, consisted of 09:54:01
22 both an algorithm and other factors that you 09:54:04
23 had previously described; is that correct? 09:54:07
24 A. Yes. 09:54:07
25 Q. Okay. Now, setting aside what 09:54:09

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1 you understood to be the -- by the way, do 09:54:13
2 you mind if I call suspicious order 09:54:17
3 monitoring "SOM" for short? 09:54:19
4 A. I don't mind. 09:54:20
5 Q. Okay. Other than what you 09:54:21
6 believe to be the elements of Mallinckrodt's 09:54:25
7 SOM program, when you became involved as a 09:54:28
8 senior manager of the controlled substances 09:54:33
9 compliance group, is it accurate to say that 09:54:36
10 one of your primary responsibilities was to 09:54:39
11 design and implement a system to identify 09:54:41
12 suspicious orders? 09:54:44
13 MR. O'CONNOR: Object to form. 09:54:44
14 THE WITNESS: So, sir, we 09:54:45
15 already had a system in place to 09:54:47
16 identify suspicious orders. 09:54:49
17 QUESTIONS BY MR. KO: 09:54:51
18 Q. Okay. Well, it's my 09:54:51
19 understanding that you revised that system 09:54:55
20 over time when you were a senior manager. 09:54:58
21 Is that fair to say? 09:55:00
22 A. Yes. 09:55:01
23 Q. Okay. So during the time that 09:55:02
24 you were senior manager, is it accurate to 09:55:05
25 say that you continued to help design and 09:55:06

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1 implement Mallinckrodt's suspicious order 09:55:10
2 monitoring system? 09:55:12
3 A. Yes. 09:55:13
4 Q. Okay. Now, a fundamental 09:55:14
5 feature of any SOM program is to prevent 09:55:17
6 diversion of controlled substances, so just 09:55:20
7 prescription opioids manufactured by 09:55:23
8 Mallinckrodt; is that correct? 09:55:24
9 MR. O'CONNOR: Object to form. 09:55:25
10 THE WITNESS: Not to prevent, 09:55:26
11 but to guard against diversion. 09:55:30
12 QUESTIONS BY MR. KO: 09:55:32
13 Q. Okay. So you have a 09:55:32
14 distinction between prevent and guard 09:55:33
15 against? 09:55:36
16 A. Yes. 09:55:36
17 Q. Okay. And what is that 09:55:36
18 distinction? 09:55:38
19 A. So prevent is an absolute. It 09:55:38
20 means we can assure that there's never any 09:55:41
21 diversion of our product. 09:55:44
22 Guard against means to the 09:55:46
23 extent we're able, detect orders that may 09:55:50
24 be -- that are cause for further review, 09:56:00
25 sorry. 09:56:02

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1 Q. That's okay. 09:56:03
2 And when you say "may be," is 09:56:04
3 one way to say it that a fundamental feature 09:56:08
4 of a SOM program is to guard against the 09:56:12
5 potential diversion of controlled substances? 09:56:16
6 MR. O'CONNOR: Object to form. 09:56:17
7 THE WITNESS: Yes. 09:56:18
8 QUESTIONS BY MR. KO: 09:56:20
9 Q. Okay. And guarding against the 09:56:20
10 diversion of prescription opioids is an 09:56:23
11 important responsibility of a company that 09:56:25
12 manufactures prescription opioids; wouldn't 09:56:28
13 you say? 09:56:29
14 A. Yes. 09:56:31
15 Q. Okay. And as we discussed 09:56:32
16 before, the CSA imposes that obligation on 09:56:33
17 registrants in the supply chain, including on 09:56:37
18 Mallinckrodt, correct? 09:56:39
19 MR. O'CONNOR: Object to form. 09:56:40
20 THE WITNESS: Yes. 09:56:40
21 QUESTIONS BY MR. KO: 09:56:41
22 Q. And would you agree with me 09:56:43
23 that that would be one of the most 09:56:45
24 fundamental duties of the CSA? 09:56:46
25 MR. O'CONNOR: Object to form. 09:56:48

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1 THE WITNESS: The CSA covers 09:56:48
2 many aspects, my understanding, for -- 09:56:53
3 to maintain the closed system of 09:56:57
4 distribution, and suspicious order 09:57:00
5 monitoring is one of those components. 09:57:02
6 QUESTIONS BY MR. KO: 09:57:03
7 Q. Sure. 09:57:03
8 And I understand that there are 09:57:04
9 a lot of aspects to the CSA, but from your 09:57:06
10 perspective, would you agree with me that 09:57:09
11 guarding against diversion, as you put it, is 09:57:12
12 one of the fundamental duties of the CSA? 09:57:15
13 MR. O'CONNOR: Objection. 09:57:17
14 Form. 09:57:18
15 THE WITNESS: I can't say if 09:57:18
16 it -- yes. Yes. Yes. 09:57:22
17 QUESTIONS BY MR. KO: 09:57:23
18 Q. Okay. Now, as we discussed 09:57:24
19 before, in connection with these duties, you 09:57:29
20 helped revise Mallinckrodt's suspicious order 09:57:33
21 monitoring program, correct? 09:57:36
22 A. Correct. 09:57:37
23 Q. And these revisions occurred 09:57:38
24 generally in the 2000 -- the late, I guess I 09:57:42
25 would say -- I would describe it this way. 09:57:49

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<p>1 These revisions occurred 09:57:50</p> <p>2 sometime between the 2008 and 2012 time 09:57:52</p> <p>3 period. Would that be fair to say? 09:57:55</p> <p>4 MR. O'CONNOR: Object to form. 09:57:57</p> <p>5 THE WITNESS: Yes, but they're 09:57:58</p> <p>6 ongoing to this day, yes. 09:57:59</p> <p>7 QUESTIONS BY MR. KO: 09:58:00</p> <p>8 Q. Would it be accurate to say 09:58:00</p> <p>9 that there was increased scrutiny on 09:58:01</p> <p>10 Mallinckrodt's SOM program in 2008? 09:58:03</p> <p>11 MR. O'CONNOR: Object to form. 09:58:07</p> <p>12 THE WITNESS: I can't say that. 09:58:07</p> <p>13 QUESTIONS BY MR. KO: 09:58:13</p> <p>14 Q. Okay. 09:58:14</p> <p>15 A. No. 09:58:14</p> <p>16 Q. Do you recall a time in which 09:58:14</p> <p>17 you believed there was increased scrutiny on 09:58:18</p> <p>18 Mallinckrodt's SOM program? 09:58:21</p> <p>19 MR. O'CONNOR: Object to form. 09:58:22</p> <p>20 THE WITNESS: We had ongoing 09:58:23</p> <p>21 discussions with DEA, but, yes, yes, 09:58:26</p> <p>22 there was a time. 09:58:29</p> <p>23 QUESTIONS BY MR. KO: 09:58:29</p> <p>24 Q. And approximately what time 09:58:30</p> <p>25 period was that? 09:58:31</p>	<p>1 QUESTIONS BY MR. KO: 09:59:34</p> <p>2 Q. Okay. And when you say you 09:59:35</p> <p>3 were "part of a team," who was on that team? 09:59:36</p> <p>4 A. Security. 09:59:38</p> <p>5 Q. Okay. And security, is that 09:59:42</p> <p>6 Bill Ratliff? 09:59:43</p> <p>7 A. It was Bill Ratliff, and he's 09:59:44</p> <p>8 retired, and now it's John Gillies. 09:59:47</p> <p>9 Q. Okay. Anybody other than Bill 09:59:49</p> <p>10 Ratliff or John Gillies? 09:59:51</p> <p>11 A. Yes, legal. 09:59:53</p> <p>12 Q. Was that Mr. Lohman and 09:59:54</p> <p>13 Ms. Duft? 09:59:56</p> <p>14 A. Yes. 10:00:00</p> <p>15 Q. Okay. Who else? 10:00:01</p> <p>16 A. Members of the commercial 10:00:06</p> <p>17 group. Members of the IT group. 10:00:09</p> <p>18 Q. So other than security, legal, 10:00:10</p> <p>19 commercial and IT, were there any other 10:00:16</p> <p>20 groups or departments that were part of the 10:00:18</p> <p>21 SOM team? 10:00:20</p> <p>22 A. Yes. Members of the SOM team 10:00:21</p> <p>23 came and went through different iterations of 10:00:23</p> <p>24 the program, so I don't recall the 10:00:27</p> <p>25 composition of the team at a specific time, 10:00:29</p>
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<p>1 A. We met with DEA in August 09:58:32</p> <p>2 of 2011, I do remember that date -- 09:58:36</p> <p>3 Q. Okay. 09:58:38</p> <p>4 A. -- and they had some additional 09:58:39</p> <p>5 suggestions about potential enhancements of 09:58:41</p> <p>6 our suspicious order monitoring program. 09:58:43</p> <p>7 Q. Do you recall any instances in 09:58:45</p> <p>8 which you met with DEA prior to that in which 09:58:55</p> <p>9 you discussed Mallinckrodt's SOM program? 09:58:59</p> <p>10 A. Yes. 09:59:01</p> <p>11 Q. Okay. When was that? 09:59:02</p> <p>12 A. I don't remember the year, but 09:59:03</p> <p>13 there was a discussion with DEA St. Louis on 09:59:06</p> <p>14 that topic. 09:59:10</p> <p>15 Q. Okay. By the way, when you 09:59:11</p> <p>16 became senior manager of controlled substance 09:59:16</p> <p>17 compliance group -- of the controlled 09:59:19</p> <p>18 substance compliance group, you were the -- 09:59:21</p> <p>19 you had the primary responsibility of 09:59:24</p> <p>20 revising and designing Mallinckrodt's SOM 09:59:26</p> <p>21 program; is that fair to say? 09:59:29</p> <p>22 MR. O'CONNOR: Object to form. 09:59:31</p> <p>23 THE WITNESS: So it was all -- 09:59:32</p> <p>24 I was part of a team. It was a team 09:59:32</p> <p>25 effort, sir. 09:59:34</p>	<p>1 but there was a patient and product 10:00:31</p> <p>2 monitoring group that was a participant in 10:00:34</p> <p>3 the team. Credit department was a 10:00:39</p> <p>4 participant in the team. And those are the 10:00:42</p> <p>5 ones I can recall. 10:00:44</p> <p>6 Q. Okay. Thank you. 10:00:46</p> <p>7 When you referenced the 10:00:46</p> <p>8 commercial group a moment ago, what did that 10:00:51</p> <p>9 consist of? 10:00:56</p> <p>10 In other words, who were 10:00:57</p> <p>11 members of that commercial group? 10:00:59</p> <p>12 A. Primarily John Adams. 10:01:00</p> <p>13 Q. Anyone else? 10:01:05</p> <p>14 A. A gentleman named Steve Becker. 10:01:07</p> <p>15 Q. Okay. And Steve Becker was a 10:01:09</p> <p>16 national account manager, correct? 10:01:14</p> <p>17 A. Correct. 10:01:15</p> <p>18 Q. Okay. Were there any other 10:01:16</p> <p>19 customer service representatives that were 10:01:18</p> <p>20 part of that group? 10:01:19</p> <p>21 A. Yes. 10:01:20</p> <p>22 Q. Okay. Who were they? 10:01:21</p> <p>23 A. The lady's name is Brenda 10:01:22</p> <p>24 Rehkop; she's passed away. Cathy Stewart. 10:01:29</p> <p>25 Jim Rausch. 10:01:35</p>

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1 Q. And Jim Rausch was part of 10:01:36
2 commercial? 10:01:40
3 A. Well, we distinguish -- 10:01:40
4 customer service is not considered to be part 10:01:46
5 of commercial, although it would seem that it 10:01:47
6 would be, so customer service is a separate 10:01:49
7 group. 10:01:51
8 Q. Okay. Than commercial you're 10:01:51
9 saying? 10:01:53
10 A. Yes. 10:01:53
11 Q. Now, you mentioned some names 10:01:54
12 of people that have been deposed previously 10:01:57
13 in this case in the past few weeks. Many of 10:02:01
14 them have testified that you are the person 10:02:05
15 most knowledgeable about Mallinckrodt's SOM 10:02:07
16 program. 10:02:10
17 Would you agree with that 10:02:10
18 assessment? 10:02:11
19 MR. O'CONNOR: Object to form. 10:02:11
20 THE WITNESS: Well, I'm not a 10:02:12
21 vain person, but, yes, I know a lot 10:02:17
22 about the program, but it's all been 10:02:18
23 with the contributions of a -- a team 10:02:20
24 effort as time has gone on. 10:02:22
25

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1 QUESTIONS BY MR. KO: 10:02:23
2 Q. Sure. 10:02:23
3 Do you believe there's anyone 10:02:25
4 in the SOM team or anyone else in the 10:02:27
5 company, for that matter, with more knowledge 10:02:30
6 about Mallinckrodt's suspicious order 10:02:31
7 monitoring program than you? 10:02:33
8 MR. O'CONNOR: Object to form. 10:02:36
9 THE WITNESS: I'll say that's 10:02:36
10 unlikely. 10:02:37
11 QUESTIONS BY MR. KO: 10:02:38
12 Q. Okay. By the way, other than 10:02:38
13 the SOM program that you helped revise, 10:02:43
14 design and implement, were there any other 10:02:48
15 programs or systems in place at Mallinckrodt 10:02:53
16 related to diversion of controlled 10:02:57
17 substances? 10:03:00
18 A. Yes. 10:03:00
19 Q. Okay. And what were those? 10:03:04
20 A. So we -- we work with law 10:03:05
21 enforcement and give testimony when 10:03:12
22 requested. We provide placebos for law 10:03:17
23 enforcement use on specific cases. We have a 10:03:20
24 department that educates prescribers and 10:03:25
25 patients on the proper prescribing and 10:03:30

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1 dispensing and consumption of controlled 10:03:34
2 substances. 10:03:39
3 So we have many programs within 10:03:40
4 Mallinckrodt, as a responsible manufacturer, 10:03:42
5 aimed at guarding against diversion. 10:03:45
6 Q. Okay. And taking that last 10:03:46
7 category that you described with respect to 10:03:48
8 educating, I guess the public on safe 10:03:50
9 prescribing and dispensing, when did 10:03:55
10 Mallinckrodt first engage in that type of 10:03:57
11 conduct? 10:04:01
12 A. I do not know the answer. 10:04:01
13 Q. Do you generally recall if it 10:04:03
14 was after 2010? 10:04:06
15 A. I'm sorry, I don't know when 10:04:06
16 the group -- 10:04:08
17 Q. Okay. 10:04:10
18 A. -- was created. 10:04:10
19 Q. And then when you described the 10:04:11
20 law enforcement activities, it seemed like to 10:04:12
21 me, and correct me if I'm wrong, that 10:04:16
22 those -- you provided that type of support 10:04:21
23 when they requested it; is that fair to say? 10:04:23
24 MR. O'CONNOR: Object to form. 10:04:27
25 THE WITNESS: Yes. 10:04:28

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1 QUESTIONS BY MR. KO: 10:04:30
2 Q. Okay. So in other words, there 10:04:30
3 wasn't a program in place in which you were 10:04:32
4 regularly providing testimony, for example, 10:04:35
5 but you were -- you were providing testimony 10:04:37
6 to help law enforcement when they requested 10:04:39
7 it; is that fair? 10:04:41
8 A. So I don't know -- I may not be 10:04:42
9 aware of other people in other groups that 10:04:46
10 provided testimony, such as our research 10:04:48
11 scientists, so -- but those are the times 10:04:50
12 that I am aware. 10:04:54
13 Q. Okay. Now, is it accurate to 10:04:55
14 say that one of the -- you mentioned this a 10:04:56
15 moment ago, but I just want to make sure I 10:05:00
16 understand correctly. 10:05:02
17 But is it accurate to say that 10:05:03
18 one purpose of a SOM program is to identify 10:05:05
19 orders of unusual size? 10:05:08
20 A. Yes. 10:05:10
21 Q. Okay. And would it also be -- 10:05:11
22 well, why is that? 10:05:13
23 A. It's one of the indicators that 10:05:15
24 may be -- that may prompt -- well, should -- 10:05:23
25 will prompt additional investigation of that 10:05:26

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1 order. 10:05:28

2 Q. Okay. And other than that 10:05:29

3 general concept that -- in particular, the 10:05:31

4 size of an order at its most fundamental 10:05:34

5 level is important because an excessive order 10:05:37

6 or an order of -- that's -- that's large 10:05:42

7 could potentially be unusual; is that 10:05:47

8 correct? 10:05:49

9 MR. O'CONNOR: Object to form. 10:05:49

10 THE WITNESS: Yes, but it's all 10:05:50

11 relative to what -- what is large. I 10:05:55

12 can't define large. 10:05:58

13 QUESTIONS BY MR. KO: 10:05:59

14 Q. Sure. 10:05:59

15 But generally speaking, 10:06:00

16 shipping too many prescription opioids could 10:06:01

17 potentially be problematic, correct? 10:06:03

18 MR. O'CONNOR: Objection to 10:06:05

19 form. 10:06:06

20 THE WITNESS: I don't have all 10:06:06

21 the information, I'm sorry, to answer 10:06:08

22 that question completely. 10:06:09

23 QUESTIONS BY MR. KO: 10:06:10

24 Q. Sure. 10:06:11

25 Another purpose of a SOM 10:06:11

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1 program is to identify orders that deviate 10:06:14

2 from a normal pattern; would you agree with 10:06:18

3 me? 10:06:19

4 A. Yes. 10:06:19

5 Q. Okay. And it's important to 10:06:20

6 identify ordering patterns at a general 10:06:22

7 level; is that correct? 10:06:25

8 A. Yes. 10:06:25

9 Q. Okay. And another purpose of a 10:06:27

10 SOM program is to identify orders of unusual 10:06:28

11 frequency; is that fair to say? 10:06:32

12 A. Yes. Yes. 10:06:34

13 Q. And it's important to identify 10:06:35

14 the timing of orders; that would be fair to 10:06:37

15 say? 10:06:39

16 MR. O'CONNOR: Object to form. 10:06:39

17 THE WITNESS: Yes. 10:06:40

18 QUESTIONS BY MR. KO: 10:06:41

19 Q. Okay. And would you agree with 10:06:41

20 me that one of -- or another central purpose 10:06:43

21 of identifying suspicious orders is to avoid 10:06:47

22 filling them for any other purpose than 10:06:50

23 legitimate, scientific or medical needs? 10:06:53

24 MR. O'CONNOR: Object to form. 10:06:55

25 THE WITNESS: Yes. 10:06:56

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1 QUESTIONS BY MR. KO: 10:07:01

2 Q. Okay. Would you agree with me 10:07:01

3 that an effective SOM program would be able 10:07:05

4 to identify whether a pharmacy or clinic is 10:07:08

5 ordering excessive quantities of controlled 10:07:12

6 substances? 10:07:15

7 MR. O'CONNOR: Object to form. 10:07:15

8 THE WITNESS: No. 10:07:16

9 QUESTIONS BY MR. KO: 10:07:16

10 Q. Okay. You don't believe that 10:07:18

11 would be an effective SOM program, or you 10:07:18

12 wouldn't -- you don't agree with me? 10:07:21

13 A. So would you please rephrase 10:07:23

14 the question? 10:07:25

15 Q. Sure. 10:07:26

16 Would you agree with me that an 10:07:27

17 effective SOM program would be able to 10:07:28

18 identify whether a pharmacy or a clinic is 10:07:31

19 ordering excessive quantities of controlled 10:07:34

20 substances? 10:07:36

21 MR. O'CONNOR: Same objection. 10:07:36

22 THE WITNESS: So the components 10:07:37

23 of the SOM program that point out a 10:07:43

24 reason for further investigation, 10:07:50

25 they're not singular. So DEA tells us 10:07:52

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1 that these things are to be considered 10:07:58

2 during the course of our 10:08:00

3 investigation, but no one factor is 10:08:02

4 conclusively -- indicates diversion. 10:08:05

5 QUESTIONS BY MR. KO: 10:08:12

6 Q. Sure, I understand that, and I 10:08:13

7 understand that there are several different 10:08:15

8 things that you may consider. 10:08:17

9 But would you agree with me 10:08:18

10 that one aspect of an effective SOM program 10:08:19

11 would be to identify pharmacies or clinics 10:08:24

12 that order excessive amounts of controlled 10:08:26

13 substances? 10:08:29

14 MR. O'CONNOR: Object to form. 10:08:29

15 THE WITNESS: So we do not sell 10:08:29

16 to pharmacies or clinics. We sell to 10:08:32

17 wholesalers and distributors. 10:08:36

18 QUESTIONS BY MR. KO: 10:08:37

19 Q. I understand that. 10:08:38

20 But as -- as an entity that 10:08:39

21 sells to wholesalers, distributors, you know 10:08:41

22 that eventually those products are going 10:08:44

23 somewhere else; is that fair to say? 10:08:47

24 A. Yes. 10:08:49

25 Q. The distributors aren't 10:08:49

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1 necessarily providing them directly to the 10:08:50
2 consumers at that point, correct? 10:08:54
3 A. Yes. Yes. 10:08:55
4 Q. So eventually these 10:08:55
5 distributors distribute these controlled 10:08:58
6 substances to, among other entities, 10:09:03
7 pharmacies and clinics; is that correct? 10:09:05
8 A. Yes. 10:09:07
9 Q. Okay. So would you agree with 10:09:08
10 me that one component of a -- an effective 10:09:10
11 suspicious order monitoring program is to 10:09:14
12 identify whether or not these downstream 10:09:16
13 pharmacies or clinics are ordering excessive 10:09:19
14 quantities of controlled substances? 10:09:21
15 MR. O'CONNOR: Object to form. 10:09:22
16 THE WITNESS: We -- throughout 10:09:23
17 time we've been asking -- we always 10:09:26
18 ask DEA for additional guidance 10:09:29
19 because the regulations state "know 10:09:30
20 your customer." 10:09:32
21 QUESTIONS BY MR. KO: 10:09:33
22 Q. Right. 10:09:34
23 A. And we weren't aware of an 10:09:35
24 obligation, if you will, to monitor 10:09:41
25 customers' customers or if the tools existed 10:09:43

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1 to do so. 10:09:48
2 Q. And we'll get to that in a 10:09:49
3 moment, but I just have a very specific 10:09:53
4 question that I was hoping that you could 10:09:55
5 answer. 10:09:56
6 Now, you agreed with me that 10:09:57
7 distributors sell downstream to pharmacies 10:10:01
8 and clinics, correct? 10:10:03
9 A. That's correct. 10:10:04
10 Q. And at some point -- and I 10:10:05
11 understand your testimony that you became 10:10:06
12 aware that you had to, in your words, know 10:10:08
13 your customer, correct? 10:10:10
14 A. Know your customer is part of 10:10:11
15 the regulations. 10:10:13
16 Q. Right. 10:10:14
17 And then also you talked about 10:10:14
18 knowing your customer's customer as well, 10:10:16
19 correct? 10:10:19
20 A. Yes. 10:10:19
21 Q. And putting aside when you 10:10:19
22 became aware of that, I'm simply asking you: 10:10:22
23 Would you agree with me that one component of 10:10:24
24 an effective SOM program would be to identify 10:10:27
25 whether or not a downstream pharmacy or 10:10:31

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1 clinic is ordering excessive quantities of 10:10:33
2 controlled substances? 10:10:36
3 MR. O'CONNOR: Object to form. 10:10:36
4 THE WITNESS: So, yes, that 10:10:38
5 could be one component. 10:10:41
6 QUESTIONS BY MR. KO: 10:10:42
7 Q. Okay. Now, would you also 10:10:42
8 agree with me that an effective SOM program 10:10:49
9 would be able to identify whether or not that 10:10:53
10 downstream pharmacy or clinic was ordering 10:10:56
11 from multiple distributors? 10:10:58
12 MR. O'CONNOR: Object to form. 10:10:59
13 THE WITNESS: It could be one 10:11:00
14 component, yes. 10:11:03
15 QUESTIONS BY MR. KO: 10:11:04
16 Q. Okay. And in fact, that was 10:11:04
17 something that was important to Mallinckrodt 10:11:06
18 to try and determine at some point in the, I 10:11:08
19 believe, the 2010 or 2011 time period, 10:11:15
20 correct? 10:11:19
21 MR. O'CONNOR: Object to form. 10:11:19
22 THE WITNESS: When we received 10:11:19
23 guidance from DEA that that was an 10:11:20
24 appropriate thing to monitor, yes. 10:11:22
25

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1 QUESTIONS BY MR. KO: 10:11:23
2 Q. Okay. So in other words, if a 10:11:23
3 downstream pharmacy or clinic was ordering 10:11:25
4 the same oxy 15 manufactured by Mallinckrodt 10:11:26
5 from five different distributors, it would be 10:11:30
6 important to know that, correct? 10:11:32
7 A. It could be one indicator -- 10:11:34
8 Q. Right. 10:11:37
9 A. -- precipitating further 10:11:37
10 review. 10:11:40
11 Q. And you would agree with me 10:11:40
12 that an effective SOM program would be able 10:11:41
13 to determine or identify whether or not that 10:11:44
14 downstream pharmacy or clinic was ordering 10:11:47
15 from multiple distributors, correct? 10:11:49
16 MR. O'CONNOR: Object to form. 10:11:51
17 THE WITNESS: Yes. That's one 10:11:52
18 component of many, yes. 10:11:54
19 QUESTIONS BY MR. KO: 10:11:55
20 Q. Now, some of these factors we 10:12:07
21 were just discussing, is it fair to say that 10:12:09
22 you acquired this knowledge of -- strike 10:12:14
23 that. 10:12:19
24 Was there ever a time when you 10:12:19
25 were senior manager of controlled substance 10:12:28

<p style="text-align: right;">Page 82</p> <p>1 compliance where you became aware that 10:12:30</p> <p>2 relying on a simple algorithm or numerical 10:12:38</p> <p>3 formulation alone was insufficient for 10:12:41</p> <p>4 purposes of complying with your duties under 10:12:43</p> <p>5 the CSA? 10:12:45</p> <p>6 MR. O'CONNOR: Object to form. 10:12:45</p> <p>7 THE WITNESS: Yes. 10:12:46</p> <p>8 QUESTIONS BY MR. KO: 10:12:46</p> <p>9 Q. Okay. And approximately when 10:12:46</p> <p>10 was that? 10:12:48</p> <p>11 A. It was a guidance letter from 10:12:51</p> <p>12 DEA. 10:12:54</p> <p>13 Q. Okay. 10:12:54</p> <p>14 A. And it was 2006 or 2007. 10:12:54</p> <p>15 Q. Okay. So you would agree with 10:12:59</p> <p>16 me then that an ineffective SOM program would 10:13:00</p> <p>17 be one that just simply relies on numerical 10:13:07</p> <p>18 formulas to try and understand orders that 10:13:11</p> <p>19 are suspicious; is that fair to say? 10:13:14</p> <p>20 MR. O'CONNOR: Object to form. 10:13:17</p> <p>21 THE WITNESS: That's the 10:13:17</p> <p>22 guidance that -- yes, from DEA. 10:13:18</p> <p>23 QUESTIONS BY MR. KO: 10:13:19</p> <p>24 Q. Okay. Well, regardless of the 10:13:19</p> <p>25 guidance that you received, I'm just simply 10:13:21</p>	<p style="text-align: right;">Page 84</p> <p>1 the algorithm and some of the other factors 10:14:24</p> <p>2 that you were describing before? 10:14:26</p> <p>3 A. Yes. 10:14:28</p> <p>4 Q. And turning to that algorithm, 10:14:28</p> <p>5 what was your understanding of what that 10:14:31</p> <p>6 algorithm consisted of? 10:14:34</p> <p>7 A. I don't know the specific 10:14:36</p> <p>8 multiplier, but it measured each customer 10:14:39</p> <p>9 against their previous order history. 10:14:43</p> <p>10 Q. Okay. And when you say a 10:14:48</p> <p>11 "multiplier," what do you mean? 10:14:54</p> <p>12 A. There was a formula that 10:14:55</p> <p>13 indicated -- a cause for additional 10:14:59</p> <p>14 investigation would be if that order pattern 10:15:02</p> <p>15 exceeded a certain formula, such 1.5 as a 10:15:07</p> <p>16 multiplier. 10:15:10</p> <p>17 Q. And a 1.5 multiplier relative 10:15:11</p> <p>18 to what? 10:15:14</p> <p>19 A. That customer's previous order 10:15:15</p> <p>20 pattern. 10:15:18</p> <p>21 Q. Okay. And I have seen some 10:15:18</p> <p>22 references in the documents to a previous 10:15:20</p> <p>23 order pattern consisting of anywhere from 7 10:15:22</p> <p>24 to 18 months. 10:15:26</p> <p>25 Does that comport with your 10:15:27</p>
<p style="text-align: right;">Page 83</p> <p>1 asking you today, as you sit here in your 10:13:22</p> <p>2 position as someone that is most 10:13:25</p> <p>3 knowledgeable about Mallinckrodt's SOM 10:13:28</p> <p>4 program: Would you agree with me that an 10:13:31</p> <p>5 ineffective SOM program would be one that 10:13:34</p> <p>6 simply relies on numerical formulas to 10:13:38</p> <p>7 identify suspicious orders? 10:13:40</p> <p>8 MR. O'CONNOR: Object to form. 10:13:41</p> <p>9 THE WITNESS: Yes. 10:13:42</p> <p>10 QUESTIONS BY MR. KO: 10:13:42</p> <p>11 Q. Okay. Now, you talked a moment 10:13:49</p> <p>12 ago about how there was always -- as far as 10:13:51</p> <p>13 you know, there was always an SOM program at 10:13:54</p> <p>14 Mallinckrodt as far as -- as long as you 10:13:57</p> <p>15 could recall. 10:14:01</p> <p>16 A. Yes. 10:14:01</p> <p>17 Q. Now, from my position, looking 10:14:01</p> <p>18 at the documents, the first reference I see 10:14:05</p> <p>19 to an SOM program existing at Mallinckrodt is 10:14:07</p> <p>20 from 2003. 10:14:11</p> <p>21 Is it your testimony that an 10:14:13</p> <p>22 SOM program existed prior to that? 10:14:15</p> <p>23 A. Yes. 10:14:16</p> <p>24 Q. Okay. And the program prior to 10:14:17</p> <p>25 2003 consisted of, in your testimony, of both 10:14:21</p>	<p style="text-align: right;">Page 85</p> <p>1 general understanding? 10:15:30</p> <p>2 MR. O'CONNOR: Object to form. 10:15:31</p> <p>3 THE WITNESS: I don't know. I 10:15:31</p> <p>4 know about the 18 months; I don't know 10:15:33</p> <p>5 about the seven. 10:15:34</p> <p>6 QUESTIONS BY MR. KO: 10:15:37</p> <p>7 Q. Okay. But generally speaking, 10:15:37</p> <p>8 what you mean when you say "multiplier" and 10:15:41</p> <p>9 when you referenced 1.5, are you saying that 10:15:42</p> <p>10 the algorithm in place before 2003 was 10:15:44</p> <p>11 utilization of some multiplier relative to 10:15:50</p> <p>12 the previous ordering history of a 10:15:52</p> <p>13 Mallinckrodt customer? Is that accurate? 10:15:55</p> <p>14 A. Yes. Yes. 10:15:57</p> <p>15 Q. Okay. And the customers at the 10:15:57</p> <p>16 time, of course, are wholesale distributors, 10:15:59</p> <p>17 right? 10:16:01</p> <p>18 A. I can't -- we only sold to 10:16:02</p> <p>19 other manufacturers from the St. Louis plant 10:16:08</p> <p>20 manufacturing until we acquired our Hobart, 10:16:12</p> <p>21 New York, facility, and I always forget what 10:16:16</p> <p>22 year that was. I'm sorry. 10:16:18</p> <p>23 Q. Okay. So prior to -- was that 10:16:19</p> <p>24 generally 2004, 2005; do you know? 10:16:21</p> <p>25 A. I can't remember the year, I'm 10:16:24</p>

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1 sorry. 10:16:25

2 Q. Okay. That's all right. 10:16:25

3 That's helpful. 10:16:26

4 So before acquiring the Hobart 10:16:27

5 facility, Mallinckrodt was only distributing 10:16:30

6 to other manufacturers? 10:16:32

7 A. Yes, and some researchers, yes. 10:16:33

8 Q. Okay. 10:16:37

9 A. But not wholesalers, 10:16:37

10 distributors. 10:16:39

11 Q. And these other manufacturers 10:16:39

12 included entities like Purdue? 10:16:42

13 A. I don't know if Purdue was a 10:16:44

14 customer, but they were dosage pharm 10:16:45

15 manufacturers who chose to buy our bulk 10:16:48

16 narcotics. 10:16:51

17 Q. Right. Okay. 10:16:52

18 So then -- thank you for 10:16:53

19 bringing up the bulk narcotics. 10:16:55

20 This order -- excuse me. This 10:16:57

21 SOM program that you're describing, was there 10:17:03

22 an SOM program that existed both with respect 10:17:05

23 to Mallinckrodt's bulk business and its 10:17:08

24 dosage business at the time you became 10:17:14

25 involved in the DEA compliance group? 10:17:17

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1 A. It always existed for the bulk 10:17:19

2 business, and it existed when we bought the 10:17:24

3 Hobart facility. But I'm sorry, I can't 10:17:26

4 remember what year that was relative to when 10:17:29

5 I was in the DEA compliance group, but I 10:17:31

6 believe it was during my time in the DEA 10:17:34

7 compliance group, yes. 10:17:37

8 Q. Okay. And then I just want to 10:17:38

9 make sure the record is clear because we're 10:17:39

10 talking about the bulk business. But when 10:17:41

11 did you become {sic} aware of an algorithm or 10:17:43

12 a suspicious order monitoring program that 10:17:45

13 applied to the dosage side of Mallinckrodt's 10:17:49

14 business? 10:17:55

15 MR. O'CONNOR: Object to form. 10:17:55

16 THE WITNESS: When we began 10:17:55

17 participating in the dosage generic 10:17:58

18 business. 10:18:00

19 QUESTIONS BY MR. KO: 10:18:00

20 Q. And that was after you acquired 10:18:01

21 the Hobart facility? 10:18:02

22 A. Yes. 10:18:04

23 Q. Okay. So prior to that time, 10:18:04

24 Mallinckrodt did not have -- because they 10:18:06

25 weren't participating. But they did not have 10:18:09

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1 a SOM program for anything other than the 10:18:11

2 bulk side of the business; is that accurate? 10:18:14

3 MR. O'CONNOR: Object to form. 10:18:16

4 THE WITNESS: Yes. 10:18:17

5 QUESTIONS BY MR. KO: 10:18:19

6 Q. Okay. 10:18:19

7 MR. O'CONNOR: Counsel, we've 10:18:30

8 been going a little more than an hour. 10:18:31

9 Should we take a break? 10:18:35

10 MR. KO: Sure. 10:18:36

11 VIDEOGRAPHER: We are going off 10:18:36

12 the record at 10:18 a m. 10:18:38

13 (Off the record at 10:18 a m.) 10:18:39

14 VIDEOGRAPHER: We are back on 10:35:34

15 the record at 10:35 a m. 10:35:43

16 QUESTIONS BY MR. KO: 10:35:44

17 Q. Welcome back from the break, 10:35:46

18 Ms. Harper. 10:35:49

19 A. Thank you. 10:35:49

20 Q. Now, at some point in time when 10:35:50

21 you were involved in the controlled substance 10:35:52

22 compliance group, did you become aware of 10:35:54

23 diversion issues in the state of Florida in 10:35:58

24 particular? 10:36:01

25 MR. O'CONNOR: Object to form. 10:36:02

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1 THE WITNESS: Yes. 10:36:02

2 QUESTIONS BY MR. KO: 10:36:03

3 Q. Okay. And approximately when 10:36:03

4 was that? 10:36:04

5 A. I don't know the exact year. 10:36:04

6 I'm sorry. 10:36:10

7 Q. Okay. And were you aware of 10:36:10

8 the problems that existed in Florida through, 10:36:13

9 among other things, communications with the 10:36:15

10 DEA? 10:36:17

11 MR. O'CONNOR: Object to form. 10:36:18

12 THE WITNESS: Yes. 10:36:18

13 QUESTIONS BY MR. KO: 10:36:21

14 Q. Okay. And is it fair to say 10:36:21

15 that the DEA was focused on the distribution 10:36:24

16 of Mallinckrodt oxy -- oxycodone 10:36:28

17 15 milligrams and oxycodone 30 milligrams? 10:36:32

18 MR. O'CONNOR: Object to form. 10:36:35

19 THE WITNESS: Yes. 10:36:36

20 QUESTIONS BY MR. KO: 10:36:36

21 Q. Okay. And do you mind if I 10:36:37

22 call that, just for shorthand, oxy 15 and 10:36:40

23 oxy 30s? 10:36:47

24 A. I don't mind. 10:36:48

25 Q. So you were aware at some point 10:36:49

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1 in time when you were involved with the 10:36:52
2 controlled substance compliance group that 10:36:53
3 Mallinckrodt was manufacturing a substantial 10:36:57
4 amount of oxy 15s and 30s that were ending up 10:36:59
5 in Florida; is that accurate? 10:37:03
6 MR. O'CONNOR: Objection to 10:37:05
7 form. 10:37:06
8 THE WITNESS: So I don't know 10:37:06
9 our market share over time, and 10:37:07
10 substantial is -- I don't have enough 10:37:08
11 information relative to other 10:37:10
12 suppliers to answer that question. 10:37:11
13 I'm sorry. 10:37:13
14 QUESTIONS BY MR. KO: 10:37:13
15 Q. Sure. 10:37:13
16 But you knew that -- you became 10:37:13
17 aware at some point that Mallinckrodt was 10:37:16
18 sending hundreds of millions of pills to the 10:37:19
19 state of Florida, and in particular oxy 15s 10:37:22
20 and oxy 30s; is that fair to say? 10:37:25
21 A. So we sell to wholesalers and 10:37:28
22 distributors who subsequently sell to 10:37:31
23 downstream registrants. Some of those are in 10:37:34
24 Florida, yes, but I believe we only have one 10:37:36
25 distributor actually located within the state 10:37:38

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1 of Florida. 10:37:40
2 Q. Yeah. 10:37:40
3 And setting aside who you 10:37:41
4 directly sold to, at some point in time you 10:37:44
5 became acutely aware of the amount of oxy 15s 10:37:47
6 and 30s that were ending up in Florida, 10:37:51
7 regardless of who you initially sold them to; 10:37:55
8 is that fair to say? 10:37:58
9 A. Yes. 10:37:58
10 Q. Okay. And you also became 10:37:59
11 aware that Mallinckrodt-manufactured generic 10:38:03
12 opioids, including oxy 15s and 30s, were 10:38:07
13 being widely abused and diverted in Florida; 10:38:10
14 is that fair to say? 10:38:16
15 MR. O'CONNOR: Objection to 10:38:16
16 form. 10:38:17
17 THE WITNESS: Yes. 10:38:17
18 QUESTIONS BY MR. KO: 10:38:17
19 Q. Okay. And are you also 10:38:18
20 familiar with the term "the Oxy Express"? 10:38:20
21 A. Yes. 10:38:24
22 Q. In fact, you gave a 10:38:24
23 presentation, I believe, at one point in time 10:38:25
24 about the Oxy Express; is that accurate? 10:38:26
25 MR. O'CONNOR: Object to form. 10:38:29

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1 THE WITNESS: Yes. 10:38:30
2 QUESTIONS BY MR. KO: 10:38:30
3 Q. And the Oxy Express is also 10:38:30
4 shorthand for the migration of pills from 10:38:32
5 Florida up north through the I-75 corridor; 10:38:38
6 is that fair to say? 10:38:42
7 A. I'm not certain of the exact 10:38:42
8 road, but, yes, yes, in general. 10:38:44
9 Q. Okay. But generally speaking, 10:38:45
10 you agree with me that the Oxy Express refers 10:38:47
11 to the migration of pills outside of the 10:38:50
12 state of Florida? 10:38:51
13 A. Yes. 10:38:52
14 Q. Okay. And these pill migrated 10:38:52
15 to other states, including, for example, 10:38:55
16 Ohio; is that correct? 10:38:58
17 MR. O'CONNOR: Objection to 10:38:59
18 form. 10:38:59
19 THE WITNESS: Yes. 10:38:59
20 QUESTIONS BY MR. KO: 10:39:00
21 Q. Okay. Have you ever heard the 10:39:01
22 term "blue highway"? 10:39:04
23 A. No. 10:39:06
24 Q. Okay. You understood that 10:39:07
25 Mallinckrodt oxy 15s and 30s were blue, 10:39:09

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1 correct? 10:39:13
2 A. Oh, yes. Yes. 10:39:13
3 Q. Okay. And you understood that 10:39:14
4 a distinct feature of these oxy 15s and 30s 10:39:15
5 and -- were -- was the fact that they were 10:39:20
6 blue, and they were one of the only 10:39:22
7 prescription opioids on the market that were 10:39:24
8 that color. 10:39:25
9 MR. O'CONNOR: Objection to 10:39:26
10 form. 10:39:27
11 QUESTIONS BY MR. KO: 10:39:27
12 Q. Do you understand that to be 10:39:28
13 the case? 10:39:29
14 A. So I know that oxy 30s are 10:39:29
15 blue. I'm not certain if oxy 15s are blue or 10:39:32
16 not, sir, I'm sorry. They may be a different 10:39:35
17 color. 10:39:38
18 Q. Okay. So with respect to at 10:39:38
19 least oxy 30 -- and again, we're talking 10:39:39
20 about the IR oxy 30s. 10:39:41
21 A. Yes. 10:39:43
22 Q. Those pills were blue, and you 10:39:44
23 understood that those pills were migrating 10:39:47
24 north away from Florida; is that fair to say? 10:39:49
25 MR. O'CONNOR: Objection to 10:39:51

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1 form. 10:39:51

2 THE WITNESS: Yes. 10:39:52

3 QUESTIONS BY MR. KO: 10:39:52

4 Q. Okay. We'll get to this a 10:39:53

5 little bit later, but about a year and a half 10:40:02

6 ago you obviously became aware of a 10:40:06

7 settlement between Mallinckrodt and DOJ; is 10:40:07

8 that correct? 10:40:11

9 A. Yes. 10:40:11

10 Q. And the settlement was with 10:40:12

11 respect to Mallinc -- among other things, 10:40:13

12 Mallinckrodt's conduct with respect to 10:40:16

13 suspicious order monitoring of controlled 10:40:21

14 substances, correct? 10:40:23

15 A. Yes. 10:40:24

16 Q. Okay. And the settlement 10:40:27

17 resulted in a \$35 million payment by your 10:40:32

18 employer to the government, correct? 10:40:34

19 A. Yes. 10:40:36

20 Q. Okay. And given that the 10:40:38

21 settlement revolved largely around 10:40:40

22 Mallinckrodt's suspicious order monitoring 10:40:44

23 activities -- I mean, that was something that 10:40:48

24 was your responsibility during the relevant 10:40:52

25 time period covered under the settlement; is 10:40:55

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1 that correct? 10:40:57

2 MR. O'CONNOR: Objection to 10:40:57

3 form. 10:40:57

4 THE WITNESS: Yes. 10:40:58

5 QUESTIONS BY MR. KO: 10:41:00

6 Q. Okay. And the relevant time 10:41:00

7 period of the settlement, I believe, or the 10:41:02

8 covered conduct as described in the 10:41:04

9 settlement -- actually, strike that. 10:41:07

10 Are you familiar with the terms 10:41:09

11 of the settlement? 10:41:10

12 A. Yes. 10:41:10

13 Q. You reviewed them? 10:41:11

14 A. Yes. 10:41:12

15 Q. Did you play a role in 10:41:13

16 negotiating any of the terms? 10:41:15

17 A. No. 10:41:17

18 Q. Okay. That was presumably done 10:41:18

19 by counsel? 10:41:21

20 A. Yes. 10:41:21

21 Q. Both in-house and outside 10:41:22

22 counsel? 10:41:24

23 A. Yes. 10:41:24

24 Q. Okay. Were you consulted at 10:41:25

25 all in connection with the settlement? 10:41:27

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1 A. Yes. 10:41:28

2 Q. Okay. And I understand the 10:41:29

3 settlement includes a period described 10:41:33

4 "covered conduct." 10:41:37

5 Do you recall that provision of 10:41:37

6 the settlement agreement? 10:41:39

7 A. Yes. 10:41:40

8 Q. And the time period for that 10:41:40

9 covered conduct was from January 1, 2008, to 10:41:42

10 January 1, 2012. 10:41:47

11 Is that consistent with your 10:41:48

12 understanding? 10:41:49

13 A. I don't remember the specific 10:41:50

14 times of the covered conduct, but -- 10:41:52

15 Q. Okay. 10:41:52

16 A. I don't. I'm sorry. 10:41:54

17 Q. All right. That's fine. We 10:41:56

18 can get to that later. 10:41:56

19 A. Okay. 10:41:57

20 Q. But in general terms, there was 10:41:57

21 a period of time in which the government 10:41:59

22 alleged that Mallinckrodt had a deficient SOM 10:42:01

23 program; is that fair to say? 10:42:04

24 A. I don't know that the term 10:42:06

25 "deficient" was used. 10:42:07

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1 Q. Okay. 10:42:08

2 A. But, yes, it was mentioned in 10:42:09

3 the memorandum of agreement. 10:42:10

4 Q. Yeah. 10:42:13

5 That Mallinckrodt's SOM -- the 10:42:14

6 settlement agreement indicated that 10:42:16

7 Mallinckrodt's SOM program did not comport 10:42:19

8 with the DEA guidelines set forth in a couple 10:42:22

9 letters sent by the DEA; is that correct? 10:42:27

10 MR. O'CONNOR: Objection to 10:42:29

11 form. 10:42:29

12 THE WITNESS: I don't remember 10:42:29

13 the specifics of the language. I'm 10:42:30

14 sorry. 10:42:33

15 QUESTIONS BY MR. KO: 10:42:33

16 Q. Okay. That's fine. 10:42:33

17 Was this settlement ever 10:42:34

18 discussed in any performance review that you 10:42:37

19 had recently? 10:42:40

20 A. No. 10:42:40

21 Q. Okay. Was there ever any 10:42:42

22 discussion of you losing your job as a result 10:42:45

23 of the settlement? 10:42:46

24 A. I offered to quit. 10:42:47

25 Q. You offered to quit. 10:42:48

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1 Why was that? 10:42:49

2 A. So that -- so that perhaps if 10:42:50

3 the company chose to bring someone in my 10:42:55

4 place, that I would gladly leave. 10:42:58

5 Q. Okay. And you offered to quit 10:43:01

6 because it was your responsibility during the 10:43:03

7 time of the covered conduct and the time 10:43:06

8 period in the settlement to monitor and 10:43:08

9 revise and design Mallinckrodt's suspicious 10:43:10

10 order monitoring system, correct? 10:43:14

11 MR. O'CONNOR: Object to form. 10:43:15

12 THE WITNESS: Yes. It happened 10:43:15

13 on my watch. 10:43:16

14 QUESTIONS BY MR. KO: 10:43:17

15 Q. By the way, are you aware of 10:43:23

16 any -- of whether or not the company 10:43:23

17 maintained a personnel file for you? 10:43:27

18 A. Yes. 10:43:28

19 Q. Okay. 10:43:31

20 A. Yes. 10:43:31

21 Q. And I take it you had annual 10:43:32

22 reviews? 10:43:37

23 A. Yes. 10:43:37

24 Q. Okay. And did you receive 10:43:38

25 copies of these annual reviews to the extent 10:43:39

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1 they were in writing? 10:43:41

2 A. Yes, I suppose. Yes. 10:43:42

3 Q. Okay. Do you recall collecting 10:43:48

4 them, keeping them, storing them? 10:43:54

5 A. No. 10:43:56

6 Q. Okay. Do you have any 10:43:56

7 documentation that you keep from the company 10:44:02

8 regarding your personnel file in any fashion? 10:44:05

9 A. I do not. 10:44:09

10 Q. Okay. Everything, you believe, 10:44:10

11 is held by the company with respect to your 10:44:12

12 employment history and your personnel file; 10:44:15

13 is that fair to say? 10:44:17

14 A. Yes. 10:44:17

15 Q. Okay. Earlier this morning we 10:44:18

16 were talking about your understanding of 10:44:30

17 Mallinckrodt's SOM program when you joined 10:44:33

18 that -- the CSC group, correct? 10:44:37

19 A. Uh-huh. 10:44:39

20 Q. And by CSC, I'm referring to 10:44:39

21 the controlled substance compliance group. 10:44:41

22 Is that fair to say? 10:44:43

23 A. Yes. 10:44:44

24 Q. Or fair to use for purposes of 10:44:44

25 this deposition today? 10:44:45

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1 A. Yes. 10:44:46

2 Q. Okay. And regarding 10:44:47

3 Mallinckrodt's SOM program, you mentioned the 10:44:49

4 role of national account managers. 10:44:53

5 Do you recall that? 10:44:56

6 A. I do. 10:44:57

7 Q. And also that customer service 10:44:58

8 representatives were involved? 10:45:00

9 A. Yes, that's correct. 10:45:02

10 Q. And I believe you testified 10:45:03

11 that they were necessary because they were 10:45:05

12 your eyes and ears on the ground -- or eyes 10:45:07

13 and ears to your customers and the customers' 10:45:09

14 customers and also the boots on the ground. 10:45:13

15 Is that an accurate -- 10:45:15

16 MR. O'CONNOR: Objection to 10:45:17

17 form. 10:45:17

18 QUESTIONS BY MR. KO: 10:45:18

19 Q. -- statement? 10:45:18

20 A. So they were the eyes and ears 10:45:19

21 to our customers, but I do not necessarily 10:45:21

22 know that they were the eyes and ears to our 10:45:23

23 customers' customers. 10:45:28

24 Q. Got it. 10:45:29

25 So it's accurate to say that 10:45:29

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1 you had NAMs, the national account managers, 10:45:32

2 and the CSRs, the customer service 10:45:34

3 representatives, involved because they were 10:45:36

4 your eyes and ears to your customers, 10:45:37

5 correct? 10:45:40

6 MR. O'CONNOR: Object to form. 10:45:40

7 THE WITNESS: Yes. Yes. Yes. 10:45:40

8 QUESTIONS BY MR. KO: 10:45:41

9 Q. Okay. And you -- is it fair to 10:45:42

10 say that you then relied on these NAMs and 10:45:47

11 CSRs to identify and assist with the 10:45:49

12 detection of suspicious orders? 10:45:53

13 MR. O'CONNOR: Object to form. 10:45:54

14 THE WITNESS: To assist, yes. 10:45:56

15 To bring things to our attention for 10:46:01

16 further investigation, yes. 10:46:03

17 QUESTIONS BY MR. KO: 10:46:05

18 Q. And you said earlier that you 10:46:05

19 had a team, and they were part of it, so they 10:46:06

20 were -- they were part of the team in 10:46:08

21 which -- they were part of the SOM team, 10:46:12

22 correct? 10:46:14

23 MR. O'CONNOR: Object to form. 10:46:15

24 THE WITNESS: They were part of 10:46:15

25 the SOM team at the time that we were 10:46:18

<p style="text-align: right;">Page 102</p> <p>1 enhancing the program but not as an 10:46:20</p> <p>2 ongoing, current-day member of the 10:46:23</p> <p>3 team. 10:46:25</p> <p>4 QUESTIONS BY MR. KO: 10:46:25</p> <p>5 Q. Got it. 10:46:27</p> <p>6 And when did that occur, that 10:46:27</p> <p>7 they were... 10:46:30</p> <p>8 Well, when you said they were 10:46:31</p> <p>9 part of the SOM team at that time, what time 10:46:39</p> <p>10 period are you talking about? 10:46:41</p> <p>11 A. So we went through several 10:46:42</p> <p>12 projects of enhancing the suspicious order 10:46:50</p> <p>13 monitoring program, and one of the components 10:46:53</p> <p>14 was a customer checklist that each customer 10:46:55</p> <p>15 was to fill out once per year. 10:46:58</p> <p>16 So the NAMs and the customer 10:47:01</p> <p>17 service reps were important contributors to 10:47:04</p> <p>18 that effort because they knew more about the 10:47:06</p> <p>19 customer side of the house, but as we sit 10:47:10</p> <p>20 here today, they are not part of the 10:47:13</p> <p>21 suspicious order monitoring team. 10:47:15</p> <p>22 Q. Got it. Thank you for the 10:47:16</p> <p>23 clarification. 10:47:17</p> <p>24 So at some point in time when 10:47:17</p> <p>25 you were part of the CSC team, the 10:47:24</p>	<p style="text-align: right;">Page 104</p> <p>1 for additional investigation. 10:48:17</p> <p>2 QUESTIONS BY MR. KO: 10:48:17</p> <p>3 Q. Okay. 10:48:19</p> <p>4 A. Not necessarily conclusion 10:48:19</p> <p>5 diversion. 10:48:21</p> <p>6 Q. Okay. That's helpful. 10:48:22</p> <p>7 And with regard to the SOM 10:48:24</p> <p>8 program, the NAMs -- so then it's fair to say 10:48:26</p> <p>9 that the NAMs' and the CSRs' job was to alert 10:48:28</p> <p>10 you to -- alert you to potential diversion; 10:48:32</p> <p>11 is that accurate? 10:48:34</p> <p>12 A. Yes, I believe the structure 10:48:35</p> <p>13 for customer service was they would escalate 10:48:36</p> <p>14 to their manager first, who would then, if 10:48:39</p> <p>15 appropriate, come to the controlled 10:48:41</p> <p>16 substances compliance group with that 10:48:43</p> <p>17 concern. 10:48:44</p> <p>18 Q. Okay. So if a -- if an 10:48:45</p> <p>19 individual who was a national account manager 10:48:48</p> <p>20 or customer service representative testified 10:48:50</p> <p>21 that she or he was not involved in 10:48:54</p> <p>22 identifying suspicious orders, that would not 10:48:57</p> <p>23 be accurate, correct? 10:48:59</p> <p>24 MR. O'CONNOR: Objection to 10:49:00</p> <p>25 form. 10:49:01</p>
<p style="text-align: right;">Page 103</p> <p>1 involvement of the NAMs and the customer 10:47:27</p> <p>2 service reps in the day-to-day monitoring of 10:47:29</p> <p>3 the customers was removed off their plate; is 10:47:34</p> <p>4 that fair to say? 10:47:38</p> <p>5 MR. O'CONNOR: Object to form. 10:47:38</p> <p>6 THE WITNESS: So I would have 10:47:41</p> <p>7 never called the NAMs a day-to-day 10:47:41</p> <p>8 monitoring. The customer service 10:47:44</p> <p>9 reps, yes, as they reviewed orders 10:47:46</p> <p>10 that came in, that has not changed. 10:47:48</p> <p>11 So I'd like to clarify that point. 10:47:49</p> <p>12 But when we speak of the 10:47:51</p> <p>13 suspicious order monitoring team, the 10:47:53</p> <p>14 commercial -- neither the commercial 10:47:56</p> <p>15 group nor customer service is 10:47:57</p> <p>16 currently on the team. 10:47:59</p> <p>17 QUESTIONS BY MR. KO: 10:48:00</p> <p>18 Q. Okay. So when they were part 10:48:00</p> <p>19 of the team, the NAMs and the CSRs assisted 10:48:02</p> <p>20 in rooting out potential diversion of 10:48:06</p> <p>21 Mallinckrodt controlled substances; is that 10:48:10</p> <p>22 accurate? 10:48:12</p> <p>23 MR. O'CONNOR: Objection. 10:48:12</p> <p>24 THE WITNESS: So they assisted 10:48:13</p> <p>25 in bringing things to our attention 10:48:15</p>	<p style="text-align: right;">Page 105</p> <p>1 THE WITNESS: It would not be 10:49:01</p> <p>2 accurate. 10:49:08</p> <p>3 QUESTIONS BY MR. KO: 10:49:15</p> <p>4 Q. Okay. Now, throughout the time 10:49:15</p> <p>5 you were involved with the CSC and in 10:49:18</p> <p>6 connection with your duties to revise the SOM 10:49:20</p> <p>7 program, did you ever consult any third 10:49:25</p> <p>8 parties or consultants to assist you in 10:49:28</p> <p>9 implementing and maintaining an SOM program? 10:49:33</p> <p>10 A. Yes. 10:49:36</p> <p>11 Q. Okay. And which third parties 10:49:37</p> <p>12 or vendors would those be? 10:49:38</p> <p>13 A. The company is Drug and 10:49:39</p> <p>14 Chemical Advisory Group. I'm not certain if 10:49:47</p> <p>15 they still exist, but that was the firm at 10:49:48</p> <p>16 the time. And that group was made up of 10:49:55</p> <p>17 former DEA executives. 10:49:58</p> <p>18 Q. Okay. Including Frank 10:49:59</p> <p>19 Sapienza? 10:50:02</p> <p>20 A. Sapienza, yes, sir. 10:50:02</p> <p>21 Q. Other than the drug and 10:50:04</p> <p>22 chemical group, anyone else? 10:50:05</p> <p>23 A. Yes. 10:50:06</p> <p>24 Q. Who or which entities? 10:50:06</p> <p>25 A. A gentleman, Howard Davis. He 10:50:09</p>

<p style="text-align: right;">Page 106</p> <p>1 was retired DEA diversion program manager. 10:50:13</p> <p>2 Q. Okay. Other than the drug and 10:50:20</p> <p>3 chemical group and Mr. Davis, did you retain 10:50:21</p> <p>4 any other entities to assist in the 10:50:25</p> <p>5 implementation of Mallinckrodt's SOM program? 10:50:28</p> <p>6 A. Is there a specific time frame 10:50:30</p> <p>7 to which you refer? 10:50:34</p> <p>8 Q. During the time period in which 10:50:35</p> <p>9 you were senior manager of the controlled 10:50:37</p> <p>10 substance compliance group. 10:50:40</p> <p>11 A. Yes. 10:50:41</p> <p>12 Q. Okay. And who would -- who 10:50:44</p> <p>13 would that individual be or which entities 10:50:45</p> <p>14 would that be? 10:50:47</p> <p>15 A. So I get -- I get confused 10:50:48</p> <p>16 because we did not retain the consulting 10:50:50</p> <p>17 group for this purpose. They were retained 10:50:55</p> <p>18 through outside counsel, so Mallinckrodt did 10:50:58</p> <p>19 not retain them. 10:51:01</p> <p>20 Q. I see. 10:51:02</p> <p>21 So outside counsel, do you mean 10:51:03</p> <p>22 Ropes & Gray? 10:51:05</p> <p>23 A. Yes. 10:51:05</p> <p>24 Q. Okay. And which third-party 10:51:06</p> <p>25 consultant or vendor are you referring to? 10:51:11</p>	<p style="text-align: right;">Page 108</p> <p>1 QUESTIONS BY MR. KO: 10:52:19</p> <p>2 Q. Okay. Other than the Buzzeo 10:52:19</p> <p>3 group, the drug and chemical group and 10:52:25</p> <p>4 Mr. Howard Davis, do you recall any other 10:52:27</p> <p>5 entities or individuals that Mallinckrodt 10:52:29</p> <p>6 retained for purposes of implementing its SOM 10:52:31</p> <p>7 program at the time you were senior manager? 10:52:34</p> <p>8 A. Yes. 10:52:36</p> <p>9 Q. Okay. Who else? 10:52:37</p> <p>10 A. So there's -- there is a lady 10:52:39</p> <p>11 who was a former employee. Her name is 10:52:41</p> <p>12 Jennifer, but she goes by Jen, Buist, 10:52:45</p> <p>13 B-u-i-s-t. 10:52:51</p> <p>14 Q. And if memory serves me 10:52:51</p> <p>15 correct, Ms. -- or Jennifer was retained 10:52:55</p> <p>16 sometime after 2012. 10:52:58</p> <p>17 Is that consistent with your 10:53:02</p> <p>18 understanding? 10:53:02</p> <p>19 A. Yes. 10:53:02</p> <p>20 Q. Okay. In other words, she 10:53:06</p> <p>21 wasn't retained -- or she wasn't part of the 10:53:08</p> <p>22 SOM team in the 2008 to 2012 time period, was 10:53:10</p> <p>23 she? 10:53:12</p> <p>24 A. No. 10:53:13</p> <p>25 (Mallinckrodt-Harper Exhibit 2 10:53:13</p>
<p style="text-align: right;">Page 107</p> <p>1 A. They've changed names 10:51:12</p> <p>2 throughout the years. It was at one time 10:51:14</p> <p>3 called Buzzeo Consulting. Their named 10:51:16</p> <p>4 changed to IQVIA, Quintiles IMS, and now 10:51:20</p> <p>5 they're known only at IMS. 10:51:27</p> <p>6 Q. And my understanding of IMS 10:51:31</p> <p>7 is -- and IQVIA is that it's a database that 10:51:32</p> <p>8 tracks detailed patient-level information. 10:51:36</p> <p>9 So I just want to make sure I understand what 10:51:39</p> <p>10 you're referring to in terms of their 10:51:41</p> <p>11 retention. 10:51:44</p> <p>12 Is it your testimony that you 10:51:45</p> <p>13 believe that they actually testified as 10:51:47</p> <p>14 consultants for the company, or did you 10:51:51</p> <p>15 simply acquire data from them? 10:51:53</p> <p>16 MR. O'CONNOR: Objection to 10:51:55</p> <p>17 form. 10:51:56</p> <p>18 THE WITNESS: We did not 10:51:56</p> <p>19 acquire data from them. The company 10:51:59</p> <p>20 may have in some respect, but the old 10:52:01</p> <p>21 Buzzeo group became a part of the 10:52:04</p> <p>22 IQVIA IMS organization, so they 10:52:06</p> <p>23 were -- primarily we dealt with 10:52:13</p> <p>24 another gentleman who was a former 10:52:15</p> <p>25 official at DEA. 10:52:18</p>	<p style="text-align: right;">Page 109</p> <p>1 marked for identification.) 10:53:13</p> <p>2 QUESTIONS BY MR. KO: 10:53:13</p> <p>3 Q. Okay. Why don't we turn to a 10:53:13</p> <p>4 new exhibit. This will be marked as Harper 10:53:22</p> <p>5 Exhibit 2. 10:53:26</p> <p>6 And for the record, Harper 10:53:39</p> <p>7 Exhibit 2 is MNK-T1_0000275504. 10:53:41</p> <p>8 And, Ms. Harper, I just want to 10:53:54</p> <p>9 direct you to some pages on this document. 10:53:56</p> <p>10 And we can get to -- well, let's take a step 10:54:04</p> <p>11 back. 10:54:08</p> <p>12 This appears to be an e-mail 10:54:08</p> <p>13 dated February 23, 2009, from you to Eileen 10:54:11</p> <p>14 Spaulding and Mary Lewis; is that correct? 10:54:15</p> <p>15 A. Yes. 10:54:18</p> <p>16 Q. And it's attaching a 10:54:18</p> <p>17 presentation you're making regarding the 10:54:20</p> <p>18 controlled substance compliance group? 10:54:22</p> <p>19 A. Yes. 10:54:24</p> <p>20 Q. Okay. And I have seen a lot of 10:54:24</p> <p>21 these presentations, and I believe that you 10:54:28</p> <p>22 have given some of these presentations, so 10:54:30</p> <p>23 I'm assuming they look familiar to you, but 10:54:33</p> <p>24 does this presentation that you see attached 10:54:35</p> <p>25 to this e-mail -- do you recall this 10:54:36</p>

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<p>1 particular presentation? 10:54:40</p> <p>2 MR. O'CONNOR: Objection to 10:54:41</p> <p>3 form. 10:54:42</p> <p>4 THE WITNESS: Not this one 10:54:42</p> <p>5 specifically, but as I read it, I'm 10:54:44</p> <p>6 familiar -- I'm refamiliarizing 10:54:46</p> <p>7 myself. 10:54:49</p> <p>8 QUESTIONS BY MR. KO: 10:54:49</p> <p>9 Q. Sure. Do you recall giving 10:54:49</p> <p>10 presentations to other people or groups at 10:54:52</p> <p>11 Mallinckrodt regarding the controlled 10:54:55</p> <p>12 substance compliance roles and 10:54:56</p> <p>13 responsibilities during the 2008 to 2017 time 10:54:58</p> <p>14 period? 10:55:03</p> <p>15 A. Yes. 10:55:03</p> <p>16 Q. Okay. And this was one of 10:55:03</p> <p>17 those presentations? 10:55:06</p> <p>18 A. Yes. 10:55:06</p> <p>19 Q. Turning to page 2, which you're 10:55:07</p> <p>20 on -- 10:55:13</p> <p>21 A. Okay. 10:55:13</p> <p>22 Q. -- of the deck, you see that 10:55:14</p> <p>23 the controlled substance compliance group was 10:55:15</p> <p>24 established in August 2008. 10:55:16</p> <p>25 Do you see that? 10:55:18</p>	<p>1 want you to confirm that at least as 10:56:19</p> <p>2 reflected on this deck, the CSC group was 10:56:22</p> <p>3 established in August of 2008, correct? 10:56:27</p> <p>4 MR. O'CONNOR: Objection to 10:56:29</p> <p>5 form. 10:56:31</p> <p>6 THE WITNESS: Yes. 10:56:32</p> <p>7 QUESTIONS BY MR. KO: 10:56:32</p> <p>8 Q. And you were senior manager of 10:56:32</p> <p>9 that group at this time, correct? 10:56:33</p> <p>10 A. I was manager. 10:56:34</p> <p>11 Q. You were manager. Okay. 10:56:40</p> <p>12 And when -- and so at some 10:56:42</p> <p>13 point you became senior manager? 10:56:44</p> <p>14 A. Yes. 10:56:45</p> <p>15 Q. Okay. And as we discussed 10:56:46</p> <p>16 earlier, you don't recall exactly when? 10:56:47</p> <p>17 A. No, I'm sorry. 10:56:49</p> <p>18 Q. Okay. Now, based on this 10:56:51</p> <p>19 document, is it accurate to say that prior to 10:56:56</p> <p>20 August 2008 there was no such group at 10:56:58</p> <p>21 Mallinckrodt called the controlled substance 10:57:00</p> <p>22 compliance group? Is that correct? 10:57:02</p> <p>23 A. Correct. 10:57:04</p> <p>24 Q. Okay. I want to turn to 10:57:04</p> <p>25 page 11 of this document, of the deck in 10:57:12</p>
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<p>1 A. I see that. 10:55:18</p> <p>2 Q. Okay. And that the name was 10:55:19</p> <p>3 changed from DEA compliance to the CSC, 10:55:21</p> <p>4 correct? 10:55:29</p> <p>5 A. Yes. Yes. 10:55:29</p> <p>6 Q. Okay. And just to help you 10:55:29</p> <p>7 along, the portion I was referencing just a 10:55:35</p> <p>8 moment ago was right there. 10:55:43</p> <p>9 And so the CSC group of which 10:55:44</p> <p>10 you were senior manager was established in 10:55:47</p> <p>11 August 2008, according to this presentation, 10:55:49</p> <p>12 correct? 10:55:51</p> <p>13 A. Yes, according to the 10:55:52</p> <p>14 presentation. 10:55:54</p> <p>15 Q. And is that consistent with 10:55:54</p> <p>16 your recollection? 10:55:57</p> <p>17 A. I'm so uncertain of the years 10:55:58</p> <p>18 the different events happened. I know this 10:56:01</p> <p>19 happened. I see that the presentation reads 10:56:03</p> <p>20 that way, but if it conflicts with a date 10:56:05</p> <p>21 that I previously provided, I apologize. 10:56:08</p> <p>22 Q. Sure. No need to apologize. 10:56:12</p> <p>23 This isn't necessarily a memory test. 10:56:15</p> <p>24 A. Okay. 10:56:17</p> <p>25 Q. But I'm just curious -- well, I 10:56:18</p>	<p>1 particular. And there is a reference made to 10:57:17</p> <p>2 the controlled substance compliance team. 10:57:20</p> <p>3 Do you see that? 10:57:21</p> <p>4 A. Yes, I do. 10:57:22</p> <p>5 Q. And it indicates here that you 10:57:24</p> <p>6 are the manager, as we just discussed, of 10:57:26</p> <p>7 controlled substance compliance, correct? 10:57:28</p> <p>8 A. Correct. 10:57:31</p> <p>9 Q. And this comprises the entire 10:57:31</p> <p>10 controlled substance compliance team? 10:57:34</p> <p>11 A. Yes. 10:57:35</p> <p>12 Q. And it looks like you reported 10:57:37</p> <p>13 to Ms. JoAnne Levy? 10:57:41</p> <p>14 A. Levy, yes, sir. 10:57:43</p> <p>15 Q. Levy, thank you. 10:57:44</p> <p>16 And what was her role? 10:57:45</p> <p>17 A. She was the vice president of 10:57:47</p> <p>18 the logistics group. 10:57:50</p> <p>19 Q. And did she have any day-to-day 10:57:51</p> <p>20 involvement with the controlled substance 10:57:54</p> <p>21 compliance team? 10:57:55</p> <p>22 A. Yes. 10:57:56</p> <p>23 Q. Okay. And what did that 10:57:56</p> <p>24 day-to-day involvement consist of? 10:57:57</p> <p>25 A. As our vice president, she was 10:57:59</p>

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1 part of the team that enhanced the suspicious 10:58:03
2 order monitoring program. 10:58:09
3 Q. Okay. 10:58:09
4 A. We also deferred to her on 10:58:09
5 certain matters of, pardon me, of quota and 10:58:14
6 other duties related to the DEA compliance 10:58:19
7 group. 10:58:22
8 Q. Okay. Now, with respect to the 10:58:22
9 revisions and implementation of 10:58:30
10 Mallinckrodt's SOM program in particular, is 10:58:31
11 it fair to say that you were the team leader 10:58:36
12 of that particular group? 10:58:38
13 A. No. 10:58:41
14 Q. It's not. 10:58:41
15 You don't believe you were the 10:58:42
16 team leader of -- during -- well, let me take 10:58:43
17 that back. 10:58:47
18 So from the time period of 10:58:47
19 August 2008 to 2012, were you the team leader 10:58:50
20 of Mallinckrodt's SOM program? 10:58:57
21 A. We did not have a designated 10:59:00
22 team leader. 10:59:02
23 Q. Okay. 10:59:03
24 A. And we would have deferred to 10:59:04
25 the most senior official on the team, but we 10:59:06

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1 did not have a designated leader. 10:59:10
2 Q. And when you say "defer to the 10:59:12
3 most senior official," are you referring to 10:59:13
4 Ms. Levy? 10:59:15
5 A. At that time, yes. 10:59:16
6 Q. Okay. There has been -- again, 10:59:18
7 this isn't a memory test. 10:59:21
8 A. Okay. 10:59:23
9 Q. So if your recollection is 10:59:23
10 different, I totally understand. 10:59:25
11 But I have seen reference to 10:59:27
12 documents that suggest that you were the team 10:59:28
13 leader of the SOM program. 10:59:30
14 Do you -- you dispute that? 10:59:32
15 MR. O'CONNOR: Objection to 10:59:33
16 form. 10:59:34
17 THE WITNESS: I don't dispute 10:59:34
18 that. 10:59:36
19 QUESTIONS BY MR. KO: 10:59:36
20 Q. Okay. You don't dispute that. 10:59:36
21 A. I may have been referenced as 10:59:38
22 the team leader, but I didn't -- I was a key 10:59:40
23 contributor, but I didn't perceive myself as 10:59:43
24 the leader. 10:59:46
25 Q. All right. But as we discussed 10:59:46

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1 before, it's highly unlikely that anyone else 10:59:47
2 at Mallinckrodt knew more about 10:59:49
3 Mallinckrodt's SOM program other than you, 10:59:52
4 correct? 10:59:54
5 A. Correct. 10:59:54
6 Q. Okay. And in addition to you 10:59:55
7 having involvement in the SOM program at 11:00:02
8 Mallinckrodt, Ms. Spaulding also played a key 11:00:03
9 role; would you agree with that? 11:00:06
10 MR. O'CONNOR: Objection to 11:00:08
11 form. 11:00:10
12 THE WITNESS: Yes. 11:00:10
13 QUESTIONS BY MR. KO: 11:00:10
14 Q. And she's based out of the 11:00:10
15 Hobart office? 11:00:12
16 A. Yes. 11:00:13
17 Q. And by the way, you were based 11:00:13
18 here in St. Louis, correct? 11:00:16
19 A. Yes. 11:00:17
20 Q. And were you based not in the 11:00:17
21 Hazelwood office but a different office? 11:00:20
22 A. I've had three different 11:00:23
23 offices in the St. Louis area. 11:00:25
24 Q. Okay. During the 2008 to 2012 11:00:26
25 time period, where were you located? 11:00:30

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1 A. I believe I was at Hazelwood. 11:00:32
2 Q. And where was Ms. Levy? 11:00:37
3 A. At Hazelwood. 11:00:42
4 Q. Okay. I want to turn to 11:00:43
5 page 15 of this deck, and here it appears 11:00:45
6 that you are describing some recent 11:00:58
7 developments in the controlled substance 11:01:01
8 compliance group; is that accurate? 11:01:03
9 A. Contributions, yes, sir. 11:01:06
10 Q. Contributions. 11:01:07
11 And one contribution appears to 11:01:07
12 be the implementation of an SOM program? 11:01:09
13 MR. O'CONNOR: Objection to 11:01:14
14 form. 11:01:14
15 THE WITNESS: So it's not 11:01:14
16 qualified here, but we had a program 11:01:18
17 in place, so that would have been an 11:01:20
18 enhancement activity of the SOM 11:01:23
19 program. 11:01:24
20 QUESTIONS BY MR. KO: 11:01:25
21 Q. Okay. And an enhancement 11:01:25
22 activity, in other words, an attempt to 11:01:27
23 revise it and improve the program; is that 11:01:32
24 accurate? 11:01:35
25 A. Yes. Yes. 11:01:35

<p style="text-align: right;">Page 118</p> <p>1 Q. And when -- here it says, "CSOS 11:01:36 2 receipt guidance for customers." 11:01:39 3 What does CSOS refer to? 11:01:40 4 A. So the DEA implemented an 11:01:42 5 electronic 222 format, and some of our 11:01:45 6 customers are narcotic treatment programs. 11:01:51 7 They had a lot of questions around how to 11:01:54 8 manage their recordkeeping, so we provided 11:01:57 9 guidance to those customers. 11:02:01 10 Q. Okay. And the 222 form is a 11:02:02 11 form required by the DEA that every 11:02:04 12 registrant fills out when ordering 11:02:05 13 prescription -- or controlled substances; is 11:02:07 14 that accurate? 11:02:09 15 A. Schedule II. 11:02:09 16 Q. Schedule II in particular? 11:02:10 17 A. Yes. 11:02:12 18 Q. Thank you. 11:02:12 19 And here, the next reference is 11:02:12 20 to what -- the next item down refers to 11:02:16 21 something we had just previously discussed 11:02:20 22 about Federal Register Notices. 11:02:22 23 Do you see that? 11:02:24 24 A. Yes. 11:02:24 25 Q. And so you are informing 11:02:25</p>	<p style="text-align: right;">Page 120</p> <p>1 they also include -- or did you also review 11:03:24 2 and read statements regarding Federal 11:03:30 3 Register Notices of suspicious order 11:03:41 4 monitoring activities? 11:03:42 5 MR. O'CONNOR: Objection to 11:03:42 6 form. 11:03:43 7 QUESTIONS BY MR. KO: 11:03:43 8 Q. It was a poor question. Let me 11:03:44 9 ask it again. 11:03:46 10 When reviewing the Federal 11:03:46 11 Register Notices, did you also see and review 11:03:48 12 notices that related to SOM activities of 11:03:50 13 other registrants? 11:03:52 14 A. Yes. 11:03:54 15 Q. And my presumption is that you 11:03:55 16 paid particularly close attention to some of 11:04:00 17 those notices? 11:04:01 18 MR. O'CONNOR: Objection. 11:04:02 19 THE WITNESS: One in 11:04:03 20 particular, yes. 11:04:03 21 QUESTIONS BY MR. KO: 11:04:04 22 Q. Would that be the Southwood -- 11:04:04 23 A. Yes. 11:04:04 24 Q. -- notice? 11:04:06 25 Okay. Do you recall when you 11:04:06</p>
<p style="text-align: right;">Page 119</p> <p>1 whoever's at this presentation that one 11:02:27 2 contribution of the CSC group is to watch 11:02:30 3 Federal Register Notices that come out that 11:02:39 4 are relevant for Mallinckrodt, correct? 11:02:41 5 A. Correct. 11:02:41 6 Q. And the Federal Register 11:02:42 7 Notices, what was your understanding of 11:02:44 8 generally what those consisted of? 11:02:46 9 Actually, take that back. 11:02:48 10 Is it -- a Federal Register 11:02:49 11 Notice -- with respect to the Federal 11:02:54 12 Register Notices that you paid particularly 11:02:57 13 close attention to, those were notices that 11:02:58 14 interpreted certain DEA statutes; is that 11:03:02 15 fair to say? 11:03:05 16 MR. O'CONNOR: Objection to 11:03:05 17 form. 11:03:05 18 THE WITNESS: I would not call 11:03:06 19 them interpretations. They were 11:03:08 20 statements of quota, the US aggregate 11:03:11 21 quota, notices of proposed rulemaking, 11:03:16 22 who had applied to become a new 11:03:19 23 registrant, things like that. 11:03:20 24 QUESTIONS BY MR. KO: 11:03:22 25 Q. Okay. And the statements, did 11:03:22</p>	<p style="text-align: right;">Page 121</p> <p>1 reviewed that one? 11:04:07 2 A. When DEA called it out in one 11:04:09 3 of their guidance letters as being 11:04:12 4 instructive, that is what we went to 11:04:14 5 immediately and reviewed. 11:04:16 6 Q. Okay. And you recall this was 11:04:17 7 generally in the 2007 or early 2008 time 11:04:19 8 period? 11:04:23 9 A. It was 2006, 2007, approximate, 11:04:24 10 but I don't remember the dates. 11:04:26 11 Q. Okay. With respect to 11:04:27 12 participate in RiskMAP program, an FDA 11:04:33 13 initiative, can you describe to the Court 11:04:38 14 what the RiskMAP program was? 11:04:41 15 A. I don't remember the definition 11:04:45 16 of the acronym, but it pertained -- it was an 11:04:47 17 FDA program where certain drug substances 11:04:53 18 were monitored forward through the supply 11:04:56 19 chain. 11:04:59 20 Q. Okay. And when you say 11:05:00 21 "forward," do you mean after they left the 11:05:02 22 warehouses of the manufacturer facility? 11:05:09 23 A. Yes. 11:05:12 24 Q. Okay. So would it be fair to 11:05:13 25 say that another way of saying -- well, 11:05:16</p>

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1 strike that. 11:05:24

2 Now, there's also a reference 11:05:24

3 made to working with the DEA on methadone. 11:05:29

4 Do you see that? 11:05:35

5 A. Yes. 11:05:36

6 Q. And Mallinckrodt manufactures a 11:05:36

7 large amount of generic methadone as well, 11:05:38

8 correct? 11:05:41

9 MR. O'CONNOR: Objection to 11:05:41

10 form. 11:05:42

11 THE WITNESS: We manufacture 11:05:42

12 methadone, and I don't again have -- I 11:05:44

13 don't know if we're the largest, or 11:05:45

14 large, but, yes, we manufacture it. 11:05:46

15 QUESTIONS BY MR. KO: 11:05:47

16 Q. Okay. And despite not knowing 11:05:48

17 whether or not you are the largest, or large, 11:05:52

18 you do understand that Mallinckrodt has for 11:05:55

19 quite some time manufactured generic 11:05:58

20 methadone, correct? 11:05:59

21 A. Yes. 11:06:00

22 Q. Okay. And since at least the 11:06:01

23 mid-'90s, if not prior to that? 11:06:02

24 A. I don't recall the year because 11:06:06

25 previously it was manufactured by an external 11:06:09

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1 party and shipped to Mallinckrodt for 11:06:11

2 distribution, so I don't know when we brought 11:06:13

3 the manufacturing in-house. 11:06:15

4 Q. Sure. 11:06:17

5 A. Of the methadone, 40 11:06:17

6 milligrams, that is. 11:06:19

7 Q. And thank you for that 11:06:20

8 clarification. 11:06:21

9 Mallinckrodt manufactured 11:06:21

10 various different strengths of methadone, 11:06:22

11 correct? 11:06:25

12 A. Yes. 11:06:25

13 Q. I believe in 5, 10 and 11:06:27

14 40-milligram dosages, among other quantities? 11:06:30

15 A. Yes. 11:06:33

16 Q. Okay. And at a certain point 11:06:33

17 in time, the DEA alerted you and the CSC 11:06:35

18 group of methadone abuse and diversion, 11:06:39

19 correct? 11:06:41

20 MR. O'CONNOR: Objection to 11:06:42

21 form. 11:06:45

22 THE WITNESS: They called it 11:06:45

23 the methadone mortality working group. 11:06:46

24 DEA asked us to come to Washington, 11:06:48

25 DC, along with other major 11:06:51

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1 manufacturers -- there were two or 11:06:53

2 three others -- and have a 11:06:54

3 collaborative discussion with them in 11:06:57

4 terms of how the 40-milligram 11:06:58

5 methadone specifically was being 11:07:02

6 distributed at pharmacies, and the 11:07:07

7 data that they were seeing related to 11:07:10

8 the mortality that they were 11:07:12

9 associating with those distributions. 11:07:13

10 QUESTIONS BY MR. KO: 11:07:15

11 Q. And when you say "mortality," 11:07:15

12 you're saying that there were a large amount 11:07:18

13 of -- or there were people that were 11:07:19

14 overdosing on methadone at the time that you 11:07:21

15 met with DEA, correct? 11:07:25

16 MR. O'CONNOR: Objection to 11:07:27

17 form. 11:07:27

18 THE WITNESS: Yes, but may I 11:07:28

19 please add that that was because there 11:07:29

20 were physicians that were writing them 11:07:33

21 for purposes other than which they 11:07:34

22 were FDA-approved. 11:07:38

23 QUESTIONS BY MR. KO: 11:07:39

24 Q. Okay. And that's based on your 11:07:40

25 understanding what the DEA was telling you, 11:07:42

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1 correct? Or do you actually have personal 11:07:44

2 knowledge? 11:07:46

3 A. I do not have any personal 11:07:46

4 knowledge. 11:07:47

5 Q. So it was based on what the DEA 11:07:47

6 was telling you? 11:07:49

7 A. Yes. 11:07:50

8 Q. And do you recall when -- 11:07:50

9 approximately when that meeting in 11:07:51

10 Washington, DC, was? 11:07:53

11 A. I don't recall the date. 11:07:54

12 Q. Was it before 2008? 11:07:57

13 A. I'm sorry, I don't recall the 11:08:00

14 date. 11:08:01

15 Q. Fair enough. 11:08:02

16 And going back to the RiskMAP 11:08:02

17 and trying to understand, as you described, 11:08:09

18 the path of a drug that a manufacturer 11:08:12

19 produced, forward, as you said, do you recall 11:08:20

20 at a certain point in time creating a RiskMAP 11:08:25

21 for oxycodone 30? 11:08:31

22 A. I do not. 11:08:32

23 Q. Okay. You don't recall any 11:08:34

24 involvement in a RiskMAP for oxy 30s or 15s? 11:08:36

25 A. We may have been asked to 11:08:39

<p style="text-align: right;">Page 126</p> <p>1 report in to the -- it was called the patient 11:08:41</p> <p>2 and product monitoring group. It was 11:08:44</p> <p>3 specific to fentanyl in the beginning, but I 11:08:50</p> <p>4 don't -- I don't know to which other products 11:08:53</p> <p>5 it may have expanded, but we did annual 11:08:55</p> <p>6 reporting to that group. 11:08:57</p> <p>7 Q. Sure. Okay. 11:08:58</p> <p>8 You didn't have any specific 11:09:00</p> <p>9 responsibility with respect to that RiskMAP 11:09:02</p> <p>10 report that you may have done for the FDA, 11:09:05</p> <p>11 correct? 11:09:08</p> <p>12 A. So we had responsibility for 11:09:08</p> <p>13 reporting any thefts or losses of these 11:09:11</p> <p>14 specific drugs, but it was an internal 11:09:13</p> <p>15 reporting to the patient and product 11:09:16</p> <p>16 monitoring group who assembled a whole large 11:09:17</p> <p>17 report consisting of other information for 11:09:21</p> <p>18 the FDA. 11:09:24</p> <p>19 Q. Okay. I understand. 11:09:25</p> <p>20 And did you have any -- a 11:09:26</p> <p>21 specific involvement with that? 11:09:29</p> <p>22 A. Only to the extent if we -- 11:09:30</p> <p>23 they contacted us once a year and asked if we 11:09:32</p> <p>24 had any recorded thefts or losses, DEA 106 11:09:35</p> <p>25 forms, for those drug products. 11:09:41</p>	<p style="text-align: right;">Page 128</p> <p>1 Now, in addition to an actual 11:10:48</p> <p>2 cost, a business and corporate cost, would 11:10:52</p> <p>3 you agree with me that the cost of 11:10:54</p> <p>4 noncompliance is actually overdose deaths? 11:10:55</p> <p>5 MR. O'CONNOR: Objection to 11:11:00</p> <p>6 form. 11:11:01</p> <p>7 QUESTIONS BY MR. KO: 11:11:02</p> <p>8 Q. In other words, there's a human 11:11:02</p> <p>9 cost of noncompliance, is there not? 11:11:04</p> <p>10 MR. O'CONNOR: Objection to 11:11:06</p> <p>11 form. 11:11:06</p> <p>12 THE WITNESS: There is a human 11:11:07</p> <p>13 cost based upon the diversion of 11:11:10</p> <p>14 prescription opioids, yes. 11:11:14</p> <p>15 QUESTIONS BY MR. KO: 11:11:16</p> <p>16 Q. And that human cost is 11:11:16</p> <p>17 manifested in either mortality or morbidity 11:11:17</p> <p>18 in the form of more people addicted to 11:11:21</p> <p>19 opioids. Would you agree with me on that? 11:11:24</p> <p>20 MR. O'CONNOR: Objection to 11:11:25</p> <p>21 form. 11:11:26</p> <p>22 THE WITNESS: Correct. Yes. 11:11:26</p> <p>23 Sorry. 11:11:27</p> <p>24 QUESTIONS BY MR. KO: 11:11:27</p> <p>25 Q. So in addition to the costs of 11:11:28</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Okay. If you turn to page 18 11:09:42</p> <p>2 of this deck, and there's a reference made to 11:09:52</p> <p>3 the cost of noncompliance. 11:10:02</p> <p>4 Do you see that? 11:10:03</p> <p>5 A. I do see it. 11:10:04</p> <p>6 Q. And by the way, do you have any 11:10:05</p> <p>7 reason to doubt that this was a presentation 11:10:07</p> <p>8 you made, or do you think that someone else 11:10:08</p> <p>9 made this presentation? 11:10:11</p> <p>10 A. I have no reason to doubt I -- 11:10:12</p> <p>11 I did make the presentation. 11:10:14</p> <p>12 Q. You did make this presentation? 11:10:15</p> <p>13 A. Yeah. 11:10:16</p> <p>14 Q. Okay. So here you're 11:10:16</p> <p>15 describing the cost of noncompliance, and in 11:10:18</p> <p>16 particular the cost of noncompliance with the 11:10:22</p> <p>17 CSA; is that fair to say? 11:10:24</p> <p>18 A. Yes. 11:10:25</p> <p>19 Q. Okay. And you are talking 11:10:25</p> <p>20 about, I think, other fines paid by other 11:10:27</p> <p>21 pharmacies and other entities and registrants 11:10:32</p> <p>22 of the CSA, correct? 11:10:36</p> <p>23 A. Well, this one is specific to a 11:10:37</p> <p>24 fine paid by Rite Aid and its subsidiaries. 11:10:41</p> <p>25 Q. Right. 11:10:47</p>	<p style="text-align: right;">Page 129</p> <p>1 noncompliance here that you list, a real and 11:11:30</p> <p>2 tangible cost of noncompliance is -- are the 11:11:35</p> <p>3 amount of lives affected by the abuse and 11:11:38</p> <p>4 diversion of prescription opioids, correct? 11:11:41</p> <p>5 MR. O'CONNOR: Objection to 11:11:42</p> <p>6 form. 11:11:44</p> <p>7 THE WITNESS: I agree, yes. 11:11:44</p> <p>8 QUESTIONS BY MR. KO: 11:11:45</p> <p>9 Q. Okay. And as we discussed 11:11:45</p> <p>10 before, many, if not all, of the complaints 11:11:49</p> <p>11 that have been filed against various entities 11:11:55</p> <p>12 involved in the supply chain of prescription 11:11:59</p> <p>13 opioids allege that state and local 11:12:01</p> <p>14 governments have had to incur the burden of 11:12:09</p> <p>15 responding to the overdose rates and 11:12:12</p> <p>16 morbidity rates that have been caused as a 11:12:16</p> <p>17 result of the opioid crisis? 11:12:19</p> <p>18 MR. O'CONNOR: Objection to 11:12:23</p> <p>19 form. 11:12:24</p> <p>20 THE WITNESS: Yes, that is the 11:12:24</p> <p>21 information that has been reported, 11:12:25</p> <p>22 yes. 11:12:26</p> <p>23 QUESTIONS BY MR. KO: 11:12:26</p> <p>24 Q. Okay. And that is -- in 11:12:26</p> <p>25 addition to the information that has been 11:12:27</p>

<p style="text-align: right;">Page 130</p> <p>1 reported, is that consistent with your 11:12:29</p> <p>2 understanding? Do you believe that to be the 11:12:31</p> <p>3 case? 11:12:32</p> <p>4 MR. O'CONNOR: Objection to 11:12:32</p> <p>5 form. 11:12:33</p> <p>6 THE WITNESS: I don't have 11:12:33</p> <p>7 firsthand knowledge of the costs, but 11:12:36</p> <p>8 I have no reason to doubt that 11:12:39</p> <p>9 reporting. 11:12:40</p> <p>10 QUESTIONS BY MR. KO: 11:12:41</p> <p>11 Q. Okay. By the way, do you 11:12:46</p> <p>12 know -- do you personally know anyone 11:12:47</p> <p>13 impacted by the opioid crisis? 11:12:49</p> <p>14 A. I do not. 11:12:52</p> <p>15 Q. You're lucky. 11:12:54</p> <p>16 A. I know. I know that. 11:12:55</p> <p>17 (Mallinckrodt-Harper Exhibit 3 11:13:05</p> <p>18 marked for identification.) 11:13:05</p> <p>19 QUESTIONS BY MR. KO: 11:12:57</p> <p>20 Q. I want to turn to the next 11:12:57</p> <p>21 exhibit, which will be marked as Harper 11:13:03</p> <p>22 Exhibit 3. 11:13:05</p> <p>23 For the record, this is ending 11:13:11</p> <p>24 in Bates stamp 283074. 11:13:13</p> <p>25 And it is an e-mail dated 11:13:24</p>	<p style="text-align: right;">Page 132</p> <p>1 presentation, but the e-mail indicates it was 11:14:20</p> <p>2 provided to Michael Santowski for training of 11:14:24</p> <p>3 the executive committee. So that was a level 11:14:28</p> <p>4 I didn't -- that was senior executives within 11:14:31</p> <p>5 the organization. 11:14:32</p> <p>6 Q. I see. That's very helpful. 11:14:33</p> <p>7 So you didn't actual present 11:14:35</p> <p>8 this deck to the executive committee? 11:14:37</p> <p>9 A. I have a number of slides that 11:14:38</p> <p>10 I pull in and out of presentations as 11:14:42</p> <p>11 appropriate for the audience. So I'm certain 11:14:44</p> <p>12 I presented variations of these slides to 11:14:47</p> <p>13 different audiences, but I did not present 11:14:50</p> <p>14 this deck to the executive committee. 11:14:52</p> <p>15 Q. Okay. That's helpful. 11:14:55</p> <p>16 But you created the deck for 11:14:56</p> <p>17 Mr. Santowski, if I understand correctly? 11:14:58</p> <p>18 A. Yes. 11:15:00</p> <p>19 Q. Okay. I want to turn to page 4 11:15:01</p> <p>20 of this deck. And here we have some of the 11:15:07</p> <p>21 regulations that interpret the CSA. 11:15:19</p> <p>22 Do you see that? 11:15:21</p> <p>23 A. I think that's verbatim, but, 11:15:22</p> <p>24 yes, yes. Not an interpretation, but the 11:15:29</p> <p>25 statements in the Code of Federal 11:15:32</p>
<p style="text-align: right;">Page 131</p> <p>1 April 12, 2011, from you to Michael 11:13:26</p> <p>2 Santowski. 11:13:31</p> <p>3 Who is Michael Santowski? 11:13:32</p> <p>4 A. He was the gentleman to whom I 11:13:35</p> <p>5 reported at the time. 11:13:38</p> <p>6 Q. Okay. And he was -- was he 11:13:38</p> <p>7 part of the controlled substance compliance 11:13:42</p> <p>8 team? 11:13:43</p> <p>9 A. We reported to him, so he had 11:13:44</p> <p>10 oversight for several groups, including ours, 11:13:49</p> <p>11 yes. 11:13:52</p> <p>12 Q. I see. 11:13:52</p> <p>13 And now it appears that you've 11:13:53</p> <p>14 become the senior manager of the controlled 11:13:54</p> <p>15 substance compliance group. 11:13:56</p> <p>16 Do you see that? 11:13:57</p> <p>17 A. Yes. 11:13:57</p> <p>18 Q. So at least as of April 12, 11:13:58</p> <p>19 2011, you were the senior manager of the CSC? 11:14:00</p> <p>20 A. I agree. 11:14:04</p> <p>21 Q. Okay. And this is another 11:14:05</p> <p>22 presentation you made regarding the SOM 11:14:08</p> <p>23 program at Mallinckrodt. 11:14:12</p> <p>24 Do you see that? 11:14:13</p> <p>25 A. So clearly I created the 11:14:14</p>	<p style="text-align: right;">Page 133</p> <p>1 Regulations. 11:15:35</p> <p>2 Q. Okay. Great. Thank you for 11:15:35</p> <p>3 that clarification. 11:15:36</p> <p>4 So these are statements that 11:15:37</p> <p>5 actually appear in the regulations as 11:15:39</p> <p>6 codified by 21 CFR 1301.74, correct? 11:15:42</p> <p>7 MR. O'CONNOR: Objection to 11:15:47</p> <p>8 form. 11:15:47</p> <p>9 THE WITNESS: Yes. 11:15:47</p> <p>10 QUESTIONS BY MR. KO: 11:15:48</p> <p>11 Q. Okay. And we have previously 11:15:48</p> <p>12 discussed Mallinckrodt's responsibilities 11:15:51</p> <p>13 with respect to suspicious orders, but I just 11:15:53</p> <p>14 want to make sure. 11:15:56</p> <p>15 You would agree that all the 11:15:57</p> <p>16 responsibilities and requirements set forth 11:16:00</p> <p>17 here are responsibilities that Mallinckrodt 11:16:02</p> <p>18 had, correct? 11:16:04</p> <p>19 MR. O'CONNOR: Objection to 11:16:06</p> <p>20 form. 11:16:07</p> <p>21 THE WITNESS: Yes, correct. 11:16:07</p> <p>22 QUESTIONS BY MR. KO: 11:16:08</p> <p>23 Q. Okay. And that includes a duty 11:16:08</p> <p>24 to design and operate a suspicious order 11:16:11</p> <p>25 identification system. 11:16:15</p>

<p style="text-align: right;">Page 134</p> <p>1 Mallinckrodt had that duty, 11:16:17</p> <p>2 correct? 11:16:18</p> <p>3 A. Yes. 11:16:18</p> <p>4 Q. And Mallinckrodt had a duty to 11:16:18</p> <p>5 require -- or Mallinckrodt had a duty to 11:16:24</p> <p>6 report suspicious orders to the DEA when 11:16:26</p> <p>7 discovered via a monitoring process, correct? 11:16:28</p> <p>8 A. Yes. 11:16:31</p> <p>9 Q. And Mallinckrodt had a duty 11:16:31</p> <p>10 to -- had a duty to ensure that this 11:16:34</p> <p>11 responsibility to report suspicious orders 11:16:38</p> <p>12 did not end merely with filing a suspicious 11:16:39</p> <p>13 order report; is that correct? 11:16:43</p> <p>14 MR. O'CONNOR: Objection to 11:16:44</p> <p>15 form. 11:16:45</p> <p>16 THE WITNESS: So the statement 11:16:45</p> <p>17 is correct, but I -- I must -- I would 11:16:46</p> <p>18 like to clarify. 11:16:49</p> <p>19 All these are not straight from 11:16:50</p> <p>20 CFR 21. Some of the statements, I 11:16:53</p> <p>21 believe, particularly the italicized 11:16:55</p> <p>22 one at the bottom, may have been 11:16:58</p> <p>23 culled from a DEA -- one of the DEA 11:17:01</p> <p>24 guidance letters. 11:17:04</p> <p>25</p>	<p style="text-align: right;">Page 136</p> <p>1 have any recollection? 11:17:48</p> <p>2 MR. O'CONNOR: Objection to 11:17:48</p> <p>3 form. 11:17:49</p> <p>4 THE WITNESS: I'm fairly 11:17:49</p> <p>5 certain that that was in one of the 11:17:51</p> <p>6 guidance letters from DEA circa 2006, 11:17:56</p> <p>7 2007. 11:17:59</p> <p>8 QUESTIONS BY MR. KO: 11:18:00</p> <p>9 Q. Okay. And then finally, this 11:18:00</p> <p>10 last bullet indicates that -- or you would 11:18:04</p> <p>11 agree with me that Mallinckrodt had a duty to 11:18:08</p> <p>12 conduct an independent analysis of suspicious 11:18:10</p> <p>13 orders prior to completing a sale to 11:18:13</p> <p>14 determine whether or not the controlled 11:18:14</p> <p>15 substances are likely to be diverted. 11:18:17</p> <p>16 MR. O'CONNOR: Objection to 11:18:19</p> <p>17 form. 11:18:19</p> <p>18 QUESTIONS BY MR. KO: 11:18:19</p> <p>19 Q. Is that accurate? 11:18:19</p> <p>20 A. Yes. 11:18:20</p> <p>21 Q. Okay. Now, turning to the next 11:18:21</p> <p>22 page, here you put in this presentation the 11:18:30</p> <p>23 number of people -- the number of registrants 11:18:36</p> <p>24 there are in the supply chain -- or the 11:18:39</p> <p>25 number of registrants that are part of the 11:18:43</p>
<p style="text-align: right;">Page 135</p> <p>1 QUESTIONS BY MR. KO: 11:17:04</p> <p>2 Q. Okay. But regardless of where 11:17:05</p> <p>3 it came from, at least at the time of this 11:17:08</p> <p>4 presentation, you believe that Mallinckrodt 11:17:10</p> <p>5 had a duty to ensure that their suspicious 11:17:12</p> <p>6 order responsibilities did not end merely 11:17:17</p> <p>7 with the filing of a suspicious order report; 11:17:18</p> <p>8 is that correct? 11:17:21</p> <p>9 MR. O'CONNOR: Objection to 11:17:21</p> <p>10 form. 11:17:22</p> <p>11 THE WITNESS: Correct. 11:17:22</p> <p>12 Correct. 11:17:22</p> <p>13 QUESTIONS BY MR. KO: 11:17:23</p> <p>14 Q. And Mallinckrodt also -- you 11:17:23</p> <p>15 also understand that Mallinckrodt was not 11:17:26</p> <p>16 going to get any specific guidance from the 11:17:30</p> <p>17 DEA at this time on whether or not their 11:17:33</p> <p>18 particular SOM program would be endorsed -- 11:17:37</p> <p>19 MR. O'CONNOR: Objection to 11:17:40</p> <p>20 form. 11:17:41</p> <p>21 QUESTIONS BY MR. KO: 11:17:41</p> <p>22 Q. -- is that accurate? 11:17:41</p> <p>23 A. That's accurate. 11:17:42</p> <p>24 Q. Okay. And when did you 11:17:43</p> <p>25 understand DEA to tell you that first; do you 11:17:45</p>	<p style="text-align: right;">Page 137</p> <p>1 CSA; is that correct? 11:18:44</p> <p>2 A. As of that time, yes. 11:18:45</p> <p>3 Q. Right, as of that time. 11:18:48</p> <p>4 A. Yes. 11:18:49</p> <p>5 Q. And there's a specific quote 11:18:49</p> <p>6 that you include in this presentation that 11:18:51</p> <p>7 says that "the DEA must rely on the states 11:18:53</p> <p>8 and individual registrants to monitor." 11:18:56</p> <p>9 Do you see that? 11:18:58</p> <p>10 A. I do see that. 11:18:58</p> <p>11 Q. And the "individual 11:18:59</p> <p>12 registrants" obviously refers to entities 11:19:00</p> <p>13 like Mallinckrodt? 11:19:03</p> <p>14 A. Correct. 11:19:04</p> <p>15 Q. And so at least as of this 11:19:05</p> <p>16 time, the date of this deck, you understood 11:19:07</p> <p>17 that the DEA was not going to give you 11:19:10</p> <p>18 specific guidance but was going to rely on 11:19:11</p> <p>19 registrants like Mallinckrodt to monitor 11:19:16</p> <p>20 their controlled substances, correct? 11:19:18</p> <p>21 MR. O'CONNOR: Objection to 11:19:19</p> <p>22 form. 11:19:20</p> <p>23 THE WITNESS: Correct. 11:19:20</p> <p>24 QUESTIONS BY MR. KO: 11:19:21</p> <p>25 Q. Okay. Now, I want to turn to 11:19:21</p>

<p style="text-align: right;">Page 138</p> <p>1 page 7 of this particular report, and there's 11:19:29</p> <p>2 a reference made to Florida. And I know we 11:19:36</p> <p>3 had spoken a little bit about problems in 11:19:39</p> <p>4 Florida a moment ago, but on page 7 -- give 11:19:43</p> <p>5 you a moment to get there. 11:19:49</p> <p>6 A. I'm sorry, the front and back 11:19:50</p> <p>7 is mixing me up. 11:19:52</p> <p>8 Q. Yeah. 11:19:53</p> <p>9 A. Okay. Thank you. I am at 11:19:53</p> <p>10 page 7. 11:19:55</p> <p>11 Q. Sure. 11:19:56</p> <p>12 Page 7 gives some color to what 11:19:56</p> <p>13 we were previously discussing about the 11:19:59</p> <p>14 problem in Florida, and here you describe 11:20:01</p> <p>15 that most, if not almost all, 98 percent, of 11:20:04</p> <p>16 all doctors dispensing oxycodone nationally 11:20:09</p> <p>17 are in Florida. 11:20:12</p> <p>18 Do you see that? 11:20:12</p> <p>19 A. I do. 11:20:13</p> <p>20 Q. So you were aware at the time 11:20:13</p> <p>21 of this presentation that there was a -- 11:20:16</p> <p>22 almost all of the -- or the top doctors 11:20:20</p> <p>23 dispensing oxycodone were in Florida, 11:20:23</p> <p>24 correct? 11:20:25</p> <p>25 MR. O'CONNOR: Objection to 11:20:26</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. O'CONNOR: Objection to 11:21:09</p> <p>2 form. 11:21:09</p> <p>3 THE WITNESS: So there are 11:21:09</p> <p>4 other manufacturers of oxycodone -- 11:21:13</p> <p>5 QUESTIONS BY MR. KO: 11:21:14</p> <p>6 Q. I understand that. 11:21:14</p> <p>7 A. -- and this is not specific to 11:21:15</p> <p>8 Mallinckrodt oxycodone. 11:21:16</p> <p>9 Q. Okay. But Mallinckrodt 11:21:18</p> <p>10 manufactured oxy 15s and 30s in large 11:21:19</p> <p>11 amounts, correct? 11:21:22</p> <p>12 A. Mallinckrodt manufactured oxy 11:21:23</p> <p>13 15s and 30s, and again, "large" is -- I don't 11:21:25</p> <p>14 have enough reference information relative to 11:21:28</p> <p>15 the other manufacturers' production to answer 11:21:31</p> <p>16 the question. 11:21:35</p> <p>17 Q. Well, let's talk about that 11:21:36</p> <p>18 then. The next -- the previous page, 11:21:40</p> <p>19 actually, page 6, there's a description of 11:21:42</p> <p>20 oxycodone market share of Mallinckrodt 11:21:45</p> <p>21 relative to the rest of your competitors. 11:21:47</p> <p>22 Do you see that? 11:21:50</p> <p>23 A. I do see it. 11:21:51</p> <p>24 Q. So at least as of Q4 of 2010, 11:21:53</p> <p>25 it appears that Mallinckrodt has a 52 percent 11:21:59</p>
<p style="text-align: right;">Page 139</p> <p>1 form. 11:20:27</p> <p>2 THE WITNESS: Yes. Accepting 11:20:27</p> <p>3 as factual this data published by the 11:20:32</p> <p>4 Florida governor's office, yes. 11:20:35</p> <p>5 QUESTIONS BY MR. KO: 11:20:38</p> <p>6 Q. Right. And you had 11:20:38</p> <p>7 knowledge -- or you understood there to be a 11:20:39</p> <p>8 big problem in Florida at this time -- 11:20:41</p> <p>9 MR. O'CONNOR: Objection to 11:20:43</p> <p>10 form. 11:20:43</p> <p>11 QUESTIONS BY MR. KO: 11:20:43</p> <p>12 Q. -- with respect to prescription 11:20:43</p> <p>13 opioids manufactured by Mallinckrodt, 11:20:45</p> <p>14 correct? 11:20:46</p> <p>15 MR. O'CONNOR: Same objection. 11:20:46</p> <p>16 THE WITNESS: A problem, yes. 11:20:47</p> <p>17 The -- sorry. The adjective "big," 11:20:50</p> <p>18 again, is a relative term, but, yes, a 11:20:53</p> <p>19 problem in Florida. 11:20:56</p> <p>20 QUESTIONS BY MR. KO: 11:20:57</p> <p>21 Q. Okay. And in fact, there was 11:20:57</p> <p>22 substantially more oxycodone manufactured by 11:20:59</p> <p>23 Mallinckrodt that was being dispensed in 11:21:03</p> <p>24 Florida than all the other remaining states 11:21:05</p> <p>25 combined according to this deck, correct? 11:21:07</p>	<p style="text-align: right;">Page 141</p> <p>1 share of oxycodone in the nation; is that 11:22:02</p> <p>2 accurate? 11:22:08</p> <p>3 MR. O'CONNOR: Object to form. 11:22:08</p> <p>4 THE WITNESS: Yes. 11:22:09</p> <p>5 QUESTIONS BY MR. KO: 11:22:11</p> <p>6 Q. Okay. And then that rose 11:22:12</p> <p>7 slightly in Q1 of 2011 -- fiscal year 2011 to 11:22:16</p> <p>8 56 percent. 11:22:19</p> <p>9 Do you see that? 11:22:20</p> <p>10 A. Yes, I do see that statistic, 11:22:23</p> <p>11 yes. 11:22:26</p> <p>12 Q. All right. And so there -- and 11:22:26</p> <p>13 none of Mallinckrodt's competitors are 11:22:27</p> <p>14 anywhere close to Mallinckrodt's market share 11:22:29</p> <p>15 based on this table, correct? 11:22:32</p> <p>16 A. Correct. 11:22:33</p> <p>17 Q. And in fact, as we just 11:22:35</p> <p>18 previously described and went over, the total 11:22:37</p> <p>19 percentage of Mallinckrodt's competitors is 11:22:41</p> <p>20 less than Mallinckrodt's own share of the 11:22:44</p> <p>21 market of oxycodone, correct? 11:22:47</p> <p>22 MR. O'CONNOR: Objection to 11:22:50</p> <p>23 form. 11:22:51</p> <p>24 THE WITNESS: Yes. As I sit 11:22:51</p> <p>25 here and perform quick math, yes. 11:22:53</p>

<p style="text-align: right;">Page 142</p> <p>1 Yes. 11:22:55</p> <p>2 QUESTIONS BY MR. KO: 11:22:56</p> <p>3 Q. Okay. Now, based, I believe -- 11:22:56</p> <p>4 if you turn to page 14 of this deck now, 11:23:05</p> <p>5 going forward. 11:23:08</p> <p>6 And there's reference made to a 11:23:20</p> <p>7 conversation that Mallinckrodt had with the 11:23:22</p> <p>8 DEA on July 20, 2010. 11:23:25</p> <p>9 Do you see that? 11:23:28</p> <p>10 A. I do. 11:23:29</p> <p>11 Q. And do you recall that 11:23:29</p> <p>12 conversation? 11:23:32</p> <p>13 A. I do. 11:23:32</p> <p>14 Q. And you participated in it? 11:23:33</p> <p>15 A. Yes. 11:23:35</p> <p>16 Q. Okay. And we'll get to that in 11:23:35</p> <p>17 a moment -- 11:23:36</p> <p>18 A. All right. 11:23:37</p> <p>19 Q. -- but I just want to talk 11:23:37</p> <p>20 about some of the things that you've put in 11:23:40</p> <p>21 this presentation, including the fact that 11:23:42</p> <p>22 Mallinckrodt is viewed as the kingpin within 11:23:44</p> <p>23 the drug cartel. 11:23:47</p> <p>24 Do you see that reference? 11:23:48</p> <p>25 A. I do. 11:23:50</p>	<p style="text-align: right;">Page 144</p> <p>1 expected Mallinckrodt to understand and know 11:24:43</p> <p>2 their customer's customer; is that correct? 11:24:47</p> <p>3 MR. O'CONNOR: Objection to 11:24:51</p> <p>4 form. 11:24:51</p> <p>5 THE WITNESS: Yes, that's per 11:24:51</p> <p>6 DEA St. Louis, yes. 11:24:53</p> <p>7 QUESTIONS BY MR. KO: 11:24:54</p> <p>8 Q. Okay. So as of July 20th -- no 11:24:54</p> <p>9 later than July 20, 2010, you understood that 11:24:56</p> <p>10 Mallinckrodt had an obligation as required by 11:25:00</p> <p>11 the DEA to know their customer's customer, 11:25:02</p> <p>12 correct? 11:25:05</p> <p>13 MR. O'CONNOR: Objection to 11:25:05</p> <p>14 form. 11:25:06</p> <p>15 THE WITNESS: So it was told to 11:25:06</p> <p>16 us by DEA St. Louis, but DEA Albany 11:25:07</p> <p>17 contradicted the statement. 11:25:10</p> <p>18 QUESTIONS BY MR. KO: 11:25:12</p> <p>19 Q. Okay. And we'll get to that 11:25:12</p> <p>20 maybe in a moment, but -- well, first of all, 11:25:13</p> <p>21 is there any indication of a contradiction on 11:25:17</p> <p>22 this deck? 11:25:19</p> <p>23 A. Well, so the DEA expectation, 11:25:19</p> <p>24 I'm using that term as all of DEA here when I 11:25:24</p> <p>25 prepared the bullet point on the slide, but 11:25:28</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. And that was something that the 11:23:50</p> <p>2 DEA had indicated to you? 11:23:52</p> <p>3 A. Yes. 11:23:53</p> <p>4 Q. Okay. And my presumption is 11:23:55</p> <p>5 that they expressed that view because 11:23:57</p> <p>6 Mallinckrodt had the majority of the market 11:23:59</p> <p>7 share of oxycodone? 11:24:02</p> <p>8 MR. O'CONNOR: Objection to 11:24:03</p> <p>9 form. 11:24:03</p> <p>10 THE WITNESS: I know the view 11:24:03</p> <p>11 was expressed, but I don't know what 11:24:05</p> <p>12 the basis was because this is talking 11:24:07</p> <p>13 about Harvard Drug distributor. 11:24:09</p> <p>14 QUESTIONS BY MR. KO: 11:24:12</p> <p>15 Q. Okay. So you -- regardless, 11:24:12</p> <p>16 you recall during this DEA meeting in July 11:24:16</p> <p>17 of 2010 that DEA had expressed the view that 11:24:20</p> <p>18 Mallinckrodt was viewed as the kingpin within 11:24:22</p> <p>19 the drug cartel? 11:24:24</p> <p>20 A. I do. 11:24:25</p> <p>21 Q. Okay. And we had discussed a 11:24:26</p> <p>22 little time ago that -- about Mallinckrodt's 11:24:31</p> <p>23 duties to know their customers' customers, 11:24:34</p> <p>24 and here you indicate that at least as of the 11:24:36</p> <p>25 date of this meeting, you understood that DEA 11:24:38</p>	<p style="text-align: right;">Page 145</p> <p>1 the comment came from DEA St. Louis. 11:25:31</p> <p>2 Q. Okay. So when you say that you 11:25:33</p> <p>3 are referring to DEA -- the DEA expectation, 11:25:34</p> <p>4 then it is fair to say that based on your 11:25:39</p> <p>5 conversation with the DEA on July 20th, you 11:25:41</p> <p>6 understood that Mallinckrodt had an 11:25:43</p> <p>7 obligation to know your customer's customer; 11:25:46</p> <p>8 is that correct? 11:25:50</p> <p>9 MR. O'CONNOR: Objection to 11:25:50</p> <p>10 form. 11:25:50</p> <p>11 THE WITNESS: So again, I'm 11:25:50</p> <p>12 sorry, it was DEA St. Louis, and it 11:25:51</p> <p>13 was DEA St. Louis expectation because 11:25:54</p> <p>14 that was a quote from the 11:25:58</p> <p>15 conversation. 11:25:59</p> <p>16 QUESTIONS BY MR. KO: 11:25:59</p> <p>17 Q. Okay. So I just want to make 11:25:59</p> <p>18 sure the record is clear. 11:26:01</p> <p>19 Based on your conversations 11:26:02</p> <p>20 with DEA St. Louis, it was your understanding 11:26:03</p> <p>21 that the DEA St. Louis required Mallinckrodt, 11:26:06</p> <p>22 and in fact expected Mallinckrodt, to know 11:26:10</p> <p>23 their customer's customer as of July 20, 11:26:13</p> <p>24 2010; is that correct? 11:26:15</p> <p>25 MR. O'CONNOR: Objection to 11:26:16</p>

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1	form.	11:26:16	1	I may have carried this information back to	11:28:05
2	THE WITNESS: Yes.	11:26:16	2	the suspicious order monitoring team at the	11:28:08
3	QUESTIONS BY MR. KO:	11:26:17	3	time.	11:28:10
4	Q. Okay. By the way, we talked	11:26:17	4	Q. Okay. I want to turn back to	11:28:10
5	about Mr. Ratliff a moment ago.	11:26:31	5	the table of contents of this deck, which	11:28:26
6	When did you first start	11:26:34	6	appears on page 2. And again, I understand	11:28:32
7	working with Mr. Ratliff?	11:26:35	7	that you didn't actually make this	11:28:41
8	A. I don't know the year.	11:26:37	8	presentation, but you prepared all the	11:28:44
9	Q. Okay. It was before the 2008	11:26:38	9	materials in this presentation, correct?	11:28:47
10	time period?	11:26:41	10	A. Yes.	11:28:48
11	A. I don't know when he came to	11:26:41	11	Q. Including some of the things	11:28:50
12	us, I'm sorry.	11:26:45	12	that we went over and also this reference to	11:28:52
13	Q. Sure.	11:26:46	13	an OxyContin Express video?	11:28:55
14	Do you know who Pete Kleissle	11:26:47	14	A. Yes.	11:28:58
15	is?	11:26:51	15	Q. And do you recall ever	11:28:59
16	A. Yes.	11:26:51	16	presenting -- I know you didn't make this	11:29:01
17	Q. He was at DEA, correct?	11:26:52	17	presentation, but did you recall presenting	11:29:04
18	A. Yes.	11:26:53	18	about the OxyContin Express in other settings	11:29:07
19	Q. Do you recall any conversations	11:26:53	19	at Mallinckrodt?	11:29:13
20	with Pete Kleissle regarding your obligations	11:26:55	20	A. Yes, I believe so.	11:29:13
21	to know your customer's customer?	11:26:59	21	Q. Okay. And that video, again,	11:29:13
22	A. So when I'm using the term	11:27:01	22	consisted of your understanding of migration	11:29:15
23	"DEA" here, this conversation was indeed with	11:27:06	23	of opioid pills moving north from Florida,	11:29:17
24	Pete Kleissle.	11:27:10	24	correct?	11:29:20
25	Q. Okay. So Pete Kleissle	11:27:11	25	A. Correct.	11:29:21
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1	specifically told you and other people that	11:27:15	1	Q. And unfortunately we don't have	11:29:22
2	were at this meeting that you had an	11:27:18	2	the video to play, but I believe --	11:29:27
3	obligation to know your customer's customer	11:27:20	3	A. Unfortunately, a lot of the	11:29:28
4	or --	11:27:23	4	time I couldn't get the video to play.	11:29:31
5	A. It was only me.	11:27:23	5	Q. Oh, okay.	11:29:32
6	Q. Only you. Okay.	11:27:24	6	Well, I believe there's some	11:29:33
7	And who did you share that	11:27:27	7	stills, at least, in this presentation.	11:29:34
8	information with?	11:27:28	8	Turning to page 16.	11:29:36
9	A. The person to whom I reported	11:27:28	9	A. All right.	11:29:37
10	at the time and Bill Ratliff, because I don't	11:27:35	10	Q. Do you recall that particular	11:29:47
11	believe our group reported to him, but we	11:27:38	11	image?	11:29:48
12	work in close conjunction with the security	11:27:39	12	A. I do.	11:29:48
13	group in DEA compliance.	11:27:41	13	Q. This was an image that was	11:29:49
14	Q. Okay. And so the person you	11:27:42	14	included in your video?	11:29:50
15	reported to at the time was Ms. Levy or was	11:27:44	15	A. I don't think so. I think it	11:29:51
16	it Mr. Santowski? You don't recall?	11:27:46	16	was separate.	11:29:54
17	A. It was another person, Tom	11:27:48	17	Q. This is just an image?	11:29:55
18	Berry.	11:27:52	18	A. Yes.	11:29:56
19	Q. Tom Berry. Okay.	11:27:52	19	Q. Okay. This was an image of, I	11:29:57
20	So other than Mr. Berry and	11:27:52	20	think, a pill mill in Florida?	11:29:59
21	Mr. Ratliff, did you talk about this	11:27:54	21	MR. O'CONNOR: Objection to	11:30:01
22	conversation you had with Mr. Kleissle with	11:27:56	22	form.	11:30:01
23	anyone else?	11:27:58	23	THE WITNESS: Yes.	11:30:01
24	A. I may have discussed it --	11:27:59	24	QUESTIONS BY MR. KO:	11:30:02
25	well, clearly I put it in a presentation, so	11:28:04	25	Q. And the pill mill was, I	11:30:02

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1 think -- I think this particular picture was 11:30:04
2 of Tru-Valu, I believe. 11:30:06
3 Does that name ring a bell? 11:30:08
4 MR. O'CONNOR: Objection to 11:30:12
5 form. 11:30:12
6 THE WITNESS: The name rings a 11:30:12
7 bell, but I don't have a way of 11:30:13
8 identifying the pharmacy here. 11:30:14
9 QUESTIONS BY MR. KO: 11:30:16
10 Q. Okay. By the way, what's your 11:30:16
11 definition of a pill mill? 11:30:17
12 A. The definition of a pill mill, 11:30:18
13 from my perspective, is a facility wherein 11:30:20
14 patients who may not legitimately have the 11:30:28
15 need for a prescription would go and have -- 11:30:33
16 some doctors were overprescribing or selling 11:30:38
17 oxycodone specifically within the state of 11:30:43
18 Florida because it was a DEA-registered 11:30:45
19 activity at the time. 11:30:47
20 Q. And then, therefore, as a 11:30:48
21 result of the wide -- or overprescription of 11:30:51
22 oxycodone, those particular prescription 11:30:53
23 opioids were being widely abused and 11:30:56
24 diverted; is that correct? 11:30:59
25 MR. O'CONNOR: Objection to 11:30:59

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1 form. 11:31:00
2 THE WITNESS: So, yes, 11:31:00
3 that's -- that's one of the 11:31:02
4 contributing factors, yes. 11:31:03
5 QUESTIONS BY MR. KO: 11:31:05
6 Q. Okay. And you understood 11:31:05
7 during the 2008 through 2012 time period that 11:31:07
8 there were a large amount of pill mills in 11:31:10
9 Florida, correct? 11:31:13
10 A. I don't know the number, and I 11:31:14
11 don't have a -- a basis for correlation in 11:31:16
12 terms of large -- I'm sorry, I can't answer 11:31:18
13 the question. 11:31:21
14 Q. Relative to any other states 11:31:22
15 that you were looking at during your time as 11:31:25
16 senior manager of controlled substance 11:31:26
17 compliance, do you recall any other state in 11:31:28
18 which you've examined pill mill activities 11:31:32
19 other than Florida? 11:31:34
20 A. No, the focus was Florida. 11:31:36
21 (Mallinckrodt-Harper Exhibit 4 11:31:54
22 marked for identification.) 11:31:54
23 QUESTIONS BY MR. KO: 11:31:40
24 Q. Okay. Okay. We can set this 11:31:40
25 aside. Right now turn to what will be marked 11:31:49

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1 as Harper Exhibit 4. For the record, that'll 11:31:52
2 end in Bates stamp 496098. 11:31:58
3 Actually, we'll skip that one. 11:32:18
4 Let's go to -- I'll take that one. Still 11:32:23
5 Exhibit 4. Strike that. 11:32:32
6 Exhibit 4 is actually ending in 11:32:34
7 Bates stamp 1308810. That is Harper 11:32:36
8 Exhibit 4. 11:32:44
9 You keep that one. That's the 11:32:44
10 official copy with the -- 11:32:46
11 A. Okay. I apologize. Sorry. 11:32:48
12 Q. No need to apologize. 11:32:49
13 For the record, this is a 11:32:50
14 March 3, 2008 e-mail from you to Bill 11:33:02
15 Ratliff. 11:33:05
16 Do you see that? 11:33:06
17 A. I do. 11:33:06
18 Q. Do you have any reason to doubt 11:33:06
19 that you sent this e-mail to Mr. Ratliff on 11:33:08
20 March 3, 2008? 11:33:11
21 A. No reason to doubt it. 11:33:11
22 Q. Okay. So I know you said a 11:33:13
23 moment ago you don't recall when you started 11:33:14
24 working with Mr. Ratliff, but at least as of 11:33:16
25 March of 2008, you seemed to be working with 11:33:18

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1 him in connection with DEA compliance, 11:33:20
2 correct? 11:33:24
3 A. Correct. 11:33:24
4 Q. And it appears that you're 11:33:24
5 preparing some DEA compliance monthly 11:33:25
6 highlights as of February 2008. 11:33:30
7 Do you see that? 11:33:32
8 A. Yes. 11:33:32
9 Q. And do you recall how 11:33:33
10 frequently you prepared these monthly 11:33:35
11 highlights? 11:33:37
12 A. I believe it was monthly. 11:33:38
13 Q. And do you recall when you 11:33:39
14 first started preparing these? 11:33:40
15 A. I do not. 11:33:42
16 Q. And here the distribution is to 11:33:44
17 Mr. Ratliff. 11:33:47
18 Do you recall ever sending 11:33:48
19 these DEA compliance monthly highlights to 11:33:50
20 anyone else? 11:33:55
21 A. They would have been sent to 11:33:55
22 the person to whom I reported, so it was Bill 11:33:57
23 Ratliff at the time. So there would have 11:33:59
24 been other people as -- as my manager changed 11:34:00
25 over time. 11:34:03

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1 Q. I see. 11:34:04

2 So you sent -- during the time 11:34:04

3 period in which you created a DEA compliance 11:34:07

4 monthly highlight, you sent those to your 11:34:10

5 direct report each month, correct? 11:34:12

6 A. The person to whom I reported, 11:34:14

7 yes. 11:34:16

8 Q. Okay. 11:34:16

9 A. And I can't rule out no one 11:34:16

10 else received this, but this is directed to 11:34:19

11 Bill Ratliff only on the correspondence. 11:34:22

12 Q. And as a general matter, these 11:34:24

13 monthly highlights were sent only to your 11:34:26

14 direct report; is that fair to say? 11:34:29

15 A. The person to whom I reported 11:34:31

16 directly, yes. 11:34:33

17 Q. Okay. Thank you. 11:34:33

18 And I just want to go over one 11:34:34

19 quick thing on this particular e-mail. 11:34:38

20 Do you see three sections down 11:34:42

21 the portion of the e-mail that refers to 11:34:46

22 suspicious order monitoring? 11:34:48

23 A. Yes, I see it. 11:34:49

24 Q. You indicate to Mr. Ratliff 11:34:51

25 that "the need for a comprehensive review and 11:34:55

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1 upgrade of our suspicious order monitoring 11:34:58

2 program has received elevated priority." 11:34:59

3 Did I read that correctly? 11:35:02

4 A. Yes. 11:35:03

5 Q. So is it fair to say that as of 11:35:05

6 March of 2008, your belief was that 11:35:08

7 Mallinckrodt's SOM program needed to be 11:35:12

8 reviewed and upgraded and that -- needed to 11:35:15

9 be reviewed and upgraded? 11:35:19

10 MR. O'CONNOR: Objection to 11:35:20

11 form. 11:35:20

12 THE WITNESS: It states -- yes, 11:35:20

13 it states "upgraded." I would have 11:35:22

14 changed that terminology if I could, 11:35:24

15 but it says "upgraded," yes. 11:35:26

16 QUESTIONS BY MR. KO: 11:35:27

17 Q. Okay. And you also state that 11:35:28

18 "as of March 3, 2008, the need to review and 11:35:31

19 upgrade Mallinckrodt's SOM program is an 11:35:36

20 elevated priority"; is that correct? 11:35:40

21 A. Yes. 11:35:42

22 Q. Okay. You can set that aside. 11:35:42

23 Do you recall -- you can refer 11:35:54

24 back to that document if you like, but do you 11:35:55

25 recall why you felt at that particular time 11:35:58

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1 that Mallinckrodt's SOM program needed to 11:36:02

2 be -- needed to receive elevated priority? 11:36:04

3 A. I do. 11:36:08

4 Q. Yeah. And what were the 11:36:09

5 reasons for that? 11:36:11

6 A. So this master compounding 11:36:12

7 pharmacy sale, which we did not make, the 11:36:15

8 matter was brought to our attention by a DEA 11:36:20

9 investigator. But after the decision was 11:36:23

10 made that that was a suspicious order we 11:36:26

11 would not ship, one of the narcotic -- the 11:36:28

12 NAMs -- but she was on the bulk side. She 11:36:31

13 said to us, "Ah, I was in that place, and it 11:36:34

14 didn't look right." 11:36:37

15 So that prompted a reeducation 11:36:38

16 of the commercial group, our eyes and ears in 11:36:41

17 the market again, to call to our attention 11:36:45

18 anything that looked abnormal with any of the 11:36:47

19 facilities to which we were selling. 11:36:50

20 Q. Okay. And during this time 11:36:52

21 period -- we had talked a moment ago about 11:36:54

22 certain DEA guidance letters that you had 11:36:56

23 received in 2006 through 2007 time period, 11:36:59

24 correct? 11:37:01

25 A. Yes. 11:37:01

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1 Q. And those letters were sent by 11:37:01

2 Joseph Rannazzisi, correct? 11:37:04

3 A. I believe, yes. Yes, he was 11:37:05

4 deputy assistant administrator. Yes. 11:37:08

5 Q. And is it okay for purposes of 11:37:13

6 this deposition to refer to those guidance 11:37:16

7 letters as the Rannazzisi letters? 11:37:17

8 A. Yes. 11:37:19

9 Q. Okay. So was one of the 11:37:19

10 reasons why you were putting more attention 11:37:20

11 to Mallinckrodt's SOM program a result of 11:37:25

12 receiving these -- of receiving the 11:37:28

13 Rannazzisi letters? 11:37:30

14 A. It caused us to pay -- to give 11:37:31

15 more attention to our suspicious order 11:37:36

16 monitoring, but specifically this event is as 11:37:38

17 I just previously spoke, where we had a 11:37:41

18 Mallinckrodt person out at this facility, and 11:37:44

19 in retrospect they said it didn't look right 11:37:47

20 and it wound up to be a suspicious order. 11:37:50

21 So we wanted to reeducate our 11:37:52

22 sales force about their reviewing customer 11:37:53

23 accounts when they were in there. 11:37:57

24 Q. Sure. And I understand the 11:37:59

25 specific example you're giving, and I 11:38:00

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1 appreciate that. You have great recall about 11:38:02
2 that. 11:38:06
3 But in terms of revising and 11:38:06
4 enhancing your SOM program, would it be 11:38:09
5 accurate to say that in early 2008, one of 11:38:12
6 the reasons why you wanted to do so was a 11:38:16
7 result of receiving the Rannazzisi letters? 11:38:19
8 A. Yes. 11:38:20
9 Q. Okay. I want to hand you -- 11:38:21
10 you can set that aside. 11:38:24
11 (Mallinckrodt-Harper Exhibit 5 11:38:25
12 marked for identification.) 11:38:25
13 QUESTIONS BY MR. KO: 11:38:25
14 Q. I want to hand you what's been 11:38:26
15 marked as Harper Exhibit 5, and that ends in 11:38:27
16 Bates stamp 273902. And this is an e-mail, 11:38:31
17 for the record, that you sent to several 11:38:45
18 people dated April 10, 2008. 11:38:47
19 Do you have any reason to doubt 11:38:51
20 that you sent this e-mail on this day and 11:38:55
21 time? 11:38:56
22 A. I have no reason to doubt it. 11:38:56
23 Q. Okay. And here you talk about 11:38:58
24 reference to the Drug and Chemical Advisory 11:39:01
25 Group. That's the group that we were 11:39:05

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1 discussing before that Frank Sapienza was 11:39:06
2 part of, correct? 11:39:10
3 A. Correct. 11:39:12
4 Q. And so at least as of this 11:39:12
5 time you are consulting with them -- well, is 11:39:14
6 it fair to say that as of April 10, 2008, you 11:39:16
7 are consulting with the Drug and Chemical 11:39:18
8 Advisory Group in connection with your duties 11:39:20
9 to design and implement a suspicious order 11:39:21
10 monitoring program? 11:39:24
11 A. That's correct. 11:39:24
12 Q. Okay. And on the additional 11:39:26
13 items for consideration section, you talk 11:39:29
14 about the Southwood Federal Register Notice. 11:39:33
15 Do you see that? 11:39:37
16 A. I do. 11:39:38
17 Q. And when you describe the 11:39:39
18 Southwood Federal Register Notice, you take 11:39:51
19 some important elements of that notice and 11:39:56
20 relay them to the people you are e-mailing 11:40:03
21 here. 11:40:05
22 Do you see that? 11:40:05
23 A. I do. 11:40:06
24 Q. And so when you -- you are 11:40:06
25 saying that you should incorporate certain 11:40:09

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1 questions taken from Southwood into a 11:40:12
2 checklist, correct? 11:40:19
3 A. Correct. 11:40:19
4 Q. And this checklist is reference 11:40:21
5 to a customer checklist that Mallinckrodt 11:40:24
6 utilized in connection with this SOM program, 11:40:27
7 correct? 11:40:30
8 MR. O'CONNOR: Objection to 11:40:30
9 form. 11:40:31
10 THE WITNESS: It was being 11:40:31
11 implemented at the time, yes. 11:40:33
12 QUESTIONS BY MR. KO: 11:40:34
13 Q. Okay. So, and when you say 11:40:34
14 "implemented at the time" -- thank you for 11:40:37
15 that -- as of April 10, 2008, there wasn't 11:40:38
16 necessarily a checklist that was final, 11:40:42
17 correct? 11:40:44
18 A. There were several checklists. 11:40:45
19 Okay. 11:40:49
20 So may I explain, please? 11:40:49
21 Q. Sure. 11:40:51
22 A. So there was a customer account 11:40:52
23 setup which had been in existence ad 11:40:53
24 infinitum, but this was a new customer 11:40:59
25 checklist that asked our customers to attest 11:41:01

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1 to their -- that they had a suspicious order 11:41:05
2 monitoring program. And we got that guidance 11:41:10
3 straight from Drug and Chemical Advisory 11:41:12
4 Group, that that would be a tool to augment 11:41:16
5 our program. 11:41:18
6 Q. Okay. So a moment ago when you 11:41:18
7 said that there was always a customer account 11:41:21
8 setup, as far as you understood, in 11:41:23
9 connection with SOM procedure, prior to this 11:41:24
10 date was there ever a customer checklist that 11:41:28
11 was part of that customer account setup? 11:41:31
12 A. Right. So, no, I'd like to 11:41:33
13 clarify because the previous checklist was 11:41:34
14 not in conjunction with SOM. So this is the 11:41:37
15 first SOM checklist. 11:41:40
16 Q. Great. 11:41:41
17 So accurate to say that as of 11:41:42
18 April of 2008, you are developing the first 11:41:45
19 customer checklist to be filled out in 11:41:47
20 connection with Mallinckrodt's SOM program? 11:41:50
21 Correct? 11:41:53
22 A. That's correct. 11:41:53
23 Q. Okay. And some of the 11:41:54
24 questions that you want included in the 11:41:56
25 checklist, at least your suggestion, if I 11:41:59

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1 understand correctly, is to try and determine 11:42:01
2 the overall percentage of controlled 11:42:03
3 substance filled by the pharmacy. 11:42:05
4 Do you see that? 11:42:06
5 A. I do see that. 11:42:07
6 Q. And so that was an important 11:42:08
7 feature of the checklist to you at this time. 11:42:10
8 MR. O'CONNOR: Objection to 11:42:11
9 form. 11:42:12
10 QUESTIONS BY MR. KO: 11:42:12
11 Q. Correct? 11:42:13
12 A. So it was -- they were 11:42:13
13 statements taken from Southwood, and I'm 11:42:17
14 asking the question: Should we incorporate 11:42:19
15 these questions? 11:42:21
16 Q. Okay. And you're asking the 11:42:23
17 question, "should we incorporate," because 11:42:27
18 you have received a Federal Register Notice 11:42:28
19 that suggests that you should consider asking 11:42:30
20 those questions, correct? 11:42:32
21 MR. O'CONNOR: Objection to 11:42:33
22 form. 11:42:35
23 THE WITNESS: Yes. 11:42:35
24 QUESTIONS BY MR. KO: 11:42:35
25 Q. Okay. And one question that 11:42:35

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1 you believe you should ask in light of 11:42:38
2 reviewing Southwood is to determine the 11:42:41
3 overall percentage of controlled substances 11:42:42
4 filled by a particular pharmacy, correct? 11:42:44
5 MR. O'CONNOR: Objection to 11:42:46
6 form. 11:42:47
7 THE WITNESS: So we don't ship 11:42:47
8 to pharmacies, so we adapted the 11:42:50
9 spirit of this question to ask the 11:42:53
10 question of our distributor customers. 11:42:56
11 QUESTIONS BY MR. KO: 11:42:59
12 Q. Right. 11:42:59
13 But the idea is to understand, 11:43:00
14 notwithstanding the fact that you don't ship 11:43:02
15 directly to pharmacies, the idea is to 11:43:04
16 understand what overall percentage of a 11:43:08
17 controlled substance is being filled by a 11:43:12
18 downstream pharmacy, that is, a customer of 11:43:13
19 one of your distributors, correct? 11:43:17
20 MR. O'CONNOR: Objection to 11:43:18
21 form. 11:43:19
22 THE WITNESS: That's correct. 11:43:19
23 QUESTIONS BY MR. KO: 11:43:19
24 Q. Okay. And another important 11:43:20
25 question that you glean from your review of 11:43:25

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1 Southwood is to input into the checklist 11:43:27
2 identification of the percentage of 11:43:32
3 prescriptions filled by the -- filled by the 11:43:35
4 pharmacy that originate from the Internet. 11:43:37
5 Do you see that? 11:43:39
6 MR. O'CONNOR: Objection to 11:43:39
7 form. 11:43:41
8 THE WITNESS: It was -- yes, it 11:43:41
9 was stated -- it was suggested in 11:43:42
10 Southwood's. 11:43:44
11 QUESTIONS BY MR. KO: 11:43:45
12 Q. Okay. And that -- you felt 11:43:45
13 that that was an important element to be 11:43:47
14 included in the checklist at the time, 11:43:49
15 correct? 11:43:51
16 A. So I pulled -- we pulled these 11:43:52
17 from Southwood's, but they were not 11:43:57
18 applicable to the questions we asked 11:43:59
19 distributors. Some of them became part of a 11:44:02
20 pharmacy information sheet, so I'm -- I'm 11:44:05
21 confusing the names of our forms, and I 11:44:08
22 apologize for that. 11:44:10
23 So this was taken from 11:44:11
24 Southwood's for evaluation by the team: 11:44:12
25 Could we, should we, incorporate these 11:44:14

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1 statements into our direct customer 11:44:17
2 checklist. 11:44:19
3 Q. Right. And thank you for that. 11:44:19
4 So these are questions that you 11:44:21
5 believe should be incorporated into the new 11:44:23
6 customer checklist that you were working on 11:44:25
7 in April of 2008, correct? 11:44:27
8 A. I did not know if we should -- 11:44:28
9 should use them. 11:44:33
10 Q. But you believe that they were 11:44:33
11 good suggestions pursuant to your review of 11:44:36
12 Southwood, correct? 11:44:39
13 MR. O'CONNOR: Objection to 11:44:40
14 form. 11:44:41
15 THE WITNESS: So I pulled them 11:44:41
16 out of Southwood, but I was learning 11:44:42
17 more and more and more about the 11:44:43
18 business and our customers at the 11:44:45
19 time, and I did not know if these had 11:44:48
20 relevance to be added to this direct 11:44:50
21 customer checklist. 11:44:54
22 QUESTIONS BY MR. KO: 11:44:55
23 Q. Fair enough. 11:44:55
24 Was the purpose of posing these 11:44:56
25 questions an attempt to understand more, as 11:45:00

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1 you said, about Mallinckrodt's business? 11:45:04

2 Correct? 11:45:06

3 MR. O'CONNOR: Objection to 11:45:07

4 form. 11:45:08

5 THE WITNESS: Yes. 11:45:08

6 QUESTIONS BY MR. KO: 11:45:09

7 Q. And in particular, the 11:45:09

8 questions you posed here you were considering 11:45:11

9 to include in your checklist because they 11:45:15

10 provide details of the downstream customer 11:45:18

11 that purchases drugs from distributors that 11:45:21

12 you ship and sell to directly, correct? 11:45:25

13 MR. O'CONNOR: Objection to 11:45:27

14 form. 11:45:28

15 THE WITNESS: Correct. 11:45:28

16 QUESTIONS BY MR. KO: 11:45:32

17 Q. So is it fair to say that you 11:45:33

18 are trying to understand details of where 11:45:35

19 Mallinckrodt drugs end up in terms of which 11:45:41

20 pharmacy or clinic they go to? 11:45:45

21 MR. O'CONNOR: Objection to 11:45:46

22 form. 11:45:47

23 THE WITNESS: We had two 11:45:47

24 checklists. 11:45:51

25 May I restate this? Is that 11:45:51

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1 all right with you? 11:45:54

2 QUESTIONS BY MR. KO: 11:45:54

3 Q. Yeah, sure. 11:45:55

4 A. So this was within the scope of 11:45:55

5 the suspicious order checklist going to our 11:45:59

6 direct customers. Okay? So these questions 11:46:02

7 were not applicable to our business because 11:46:07

8 we sold to wholesaler and distributor. 11:46:08

9 But as time went on, we 11:46:10

10 developed a pharmacy information sheet which, 11:46:13

11 when we had conversations with the 11:46:16

12 distributors about their customers, we asked 11:46:18

13 these questions from Southwood's: Are you 11:46:21

14 aware that your pharmacy customer has these 11:46:25

15 percentages, et cetera. 11:46:27

16 So there are two checklists, 11:46:28

17 and I think they're getting interchanged 11:46:29

18 here, and I apologize for the confusion. 11:46:31

19 Q. That's okay. I appreciate the 11:46:33

20 response. I just have a simple yes or no 11:46:37

21 question. 11:46:40

22 A. All right. 11:46:41

23 Q. Is it accurate to say, yes or 11:46:41

24 no, that one of the reasons why you are 11:46:44

25 suggesting the consideration of these 11:46:46

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1 questions as you learned from Southwood was 11:46:50

2 to understand more about the downstream 11:46:52

3 customer of a distributor that you ship drugs 11:46:54

4 to? 11:46:57

5 MR. O'CONNOR: Objection to 11:46:57

6 form. 11:46:58

7 THE WITNESS: Yes. 11:46:58

8 QUESTIONS BY MR. KO: 11:47:01

9 Q. Okay. Thank you. 11:47:02

10 There's also a reference made, 11:47:04

11 next item down -- next paragraph, excuse me, 11:47:08

12 starting with "Kim France." Do you see 11:47:13

13 there's a reference made to IntegriChain? 11:47:16

14 To help orient you, I've 11:47:21

15 highlighted it on the screen for you. 11:47:23

16 A. Oh, thank you. 11:47:25

17 Q. Yeah. 11:47:25

18 A. Yes, I see it. 11:47:34

19 Q. Okay. And you participated in 11:47:35

20 the potential retention of IntegriChain, did 11:47:37

21 you not? 11:47:42

22 A. Correct. 11:47:42

23 Q. Okay. And so did Kimberly 11:47:42

24 France, as I understand it? 11:47:49

25 A. Yes. 11:47:50

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1 Q. And who is Ms. France? 11:47:50

2 A. She was -- she was with the 11:47:51

3 patient and product monitoring group that had 11:47:53

4 a different focus and goal than the DEA 11:47:56

5 compliance group. 11:48:00

6 Q. Okay. And both she and you 11:48:01

7 were involved in the potential retention of 11:48:06

8 IntegriChain during this 2008 time period, 11:48:08

9 correct? 11:48:12

10 A. Yes, among others, yes. 11:48:12

11 Q. Okay. And this e-mail 11:48:14

12 specifically states from you that "one of the 11:48:16

13 goals of the Mallinckrodt IntegriChain 11:48:19

14 project being considered as part of RiskMAP 11:48:22

15 is to combine prescription data from Verispan 11:48:24

16 and IMS, added Mallinckrodt sales data and, 11:48:28

17 coupled with ARCOS data from DEA, to provide 11:48:32

18 a mechanism to detect diversion through the 11:48:34

19 supply chain." 11:48:37

20 Did I read that correctly? 11:48:38

21 A. Yes, you did. 11:48:39

22 Q. Okay. And so was one of the 11:48:42

23 purposes of trying to retain IntegriChain to 11:48:44

24 understand where Mallinckrodt prescription 11:48:48

25 opioids were ending up once they had left 11:48:52

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1 Mallinckrodt facilities in Hobart and 11:48:54
 2 St. Louis? 11:48:56
 3 A. We were looking at that as a 11:48:57
 4 possibility, yes. 11:49:01
 5 Q. Okay. And so you were trying 11:49:01
 6 to understand and trying to detect diversion 11:49:02
 7 throughout the supply chain with the help of 11:49:05
 8 IntegriChain; is that correct? 11:49:09
 9 MR. O'CONNOR: Objection to 11:49:11
 10 form. 11:49:12
 11 THE WITNESS: Yes, that is the 11:49:12
 12 service they offered, yes. 11:49:13
 13 QUESTIONS BY MR. KO: 11:49:20
 14 Q. Okay. And can you generally 11:49:21
 15 describe to the Court your involvement with 11:49:22
 16 this project? 11:49:23
 17 A. IntegriChain came in to 11:49:24
 18 Mallinckrodt and gave one or two 11:49:28
 19 presentations. I'm not certain. And then we 11:49:30
 20 evaluated the merit of adding that to our 11:49:35
 21 suspicious order monitoring, and we decided 11:49:39
 22 not to add IntegriChain's services. 11:49:40
 23 Q. And why did you decide not to 11:49:43
 24 retain them? 11:49:45
 25 A. So IntegriChain was a vendor, 11:49:45

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1 and their data collection did not add value 11:49:49
 2 from our perspective to our suspicious order 11:49:54
 3 monitoring program at the time. 11:49:57
 4 Q. Uh-huh. And why did you feel 11:49:58
 5 like they did not add value? 11:50:00
 6 A. Well, it was a multitude of 11:50:01
 7 data from different sources, not necessarily 11:50:06
 8 specific to Mallinckrodt data, and we 11:50:10
 9 evaluated it, as I said. 11:50:14
 10 This also says "coupled with 11:50:16
 11 ARCOS data from DEA." DEA has steadfastly 11:50:18
 12 throughout time refused to share ARCOS data 11:50:22
 13 with anyone, and so that was another key 11:50:25
 14 component of their program. 11:50:28
 15 So for those reasons we 11:50:31
 16 declined the service. 11:50:32
 17 Q. Do you recall how long you 11:50:34
 18 evaluated whether or not you were going to 11:50:35
 19 retain IntegriChain? 11:50:36
 20 A. It was straightaway, shortly 11:50:38
 21 after their one or two presentations. 11:50:42
 22 Q. Okay. I have seen reference to 11:50:46
 23 documents in which you have -- you have asked 11:50:51
 24 approval from Bill Ratliff to be part of the 11:50:53
 25 IntegriChain project. 11:50:56

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1 Do you have any reason to 11:50:58
 2 dispute that? 11:50:59
 3 MR. O'CONNOR: Objection to 11:51:00
 4 form. 11:51:00
 5 THE WITNESS: I have no reason 11:51:00
 6 to dispute it. 11:51:01
 7 QUESTIONS BY MR. KO: 11:51:02
 8 Q. Okay. So do you recall 11:51:02
 9 actually asking for approval from Mr. Ratliff 11:51:04
 10 to participate in the potential retention of 11:51:07
 11 IntegriChain? 11:51:09
 12 A. I do. 11:51:10
 13 Q. Okay. And that was obviously 11:51:11
 14 prior to this date, but do you recall whether 11:51:13
 15 or not that was in the 2007 time period? 11:51:15
 16 A. I don't recall the date, I'm 11:51:17
 17 sorry. 11:51:21
 18 Q. Okay. I want to go forward to 11:51:21
 19 the second attachment, titled "IntegriChain 11:51:29
 20 Pilot Program and Overview." And I don't -- 11:51:33
 21 we don't need to go through this in detail, 11:51:36
 22 but do you recall who actually drafted this 11:51:38
 23 language? 11:51:45
 24 A. It was not me. 11:51:46
 25 Q. Okay. Was it someone at 11:51:49

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1 Mallinckrodt? 11:51:50
 2 A. I do not know, or if it was 11:51:50
 3 IntegriChain. 11:51:53
 4 Q. Okay. But as far as you know, 11:51:54
 5 you didn't draft this particular language, 11:51:55
 6 correct? 11:51:57
 7 A. I'm positive I did not. 11:51:57
 8 Q. Okay. Despite not knowing who 11:51:59
 9 may have drafted it, as you said, you were 11:52:07
 10 considering retention of IntegriChain because 11:52:09
 11 they were going to hopefully help detect 11:52:13
 12 diversion throughout the supply chain. So 11:52:17
 13 separate and apart from what I'm 11:52:19
 14 highlighting, sorry. 11:52:22
 15 A. Oh, I'm sorry. 11:52:22
 16 Q. Yeah, no, that's okay. Let me 11:52:23
 17 repeat. 11:52:25
 18 A. Okay. 11:52:26
 19 Q. You were considering the 11:52:26
 20 retention of IntegriChain because they were 11:52:27
 21 going to help detect diversion throughout the 11:52:30
 22 supply chain, correct? 11:52:31
 23 MR. O'CONNOR: Objection to 11:52:32
 24 form. 11:52:33
 25 THE WITNESS: Yes, that was 11:52:33

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1 what they advertised. Yes. 11:52:33

2 QUESTIONS BY MR. KO: 11:52:36

3 Q. That was the intent? 11:52:37

4 A. Yes. 11:52:37

5 Q. And one of the ways that they 11:52:38

6 would do that was through capturing -- at 11:52:39

7 least representing to you that they would 11:52:41

8 capture detailed data, correct? 11:52:43

9 A. Correct. 11:52:45

10 Q. And so -- and in particular, in 11:52:46

11 the second sentence of this background 11:52:48

12 material, it indicates that "detailed data 11:52:51

13 through surveillance and pharmacovigilance is 11:52:56

14 an important resource for the company." 11:53:00

15 Do you see that? 11:53:02

16 A. I do see that. 11:53:03

17 Q. Would you agree with that 11:53:03

18 statement? 11:53:04

19 A. I would not. 11:53:04

20 Q. You don't believe detailed data 11:53:05

21 is an important resource for the company? 11:53:08

22 A. I don't understand how 11:53:09

23 pharmacovigilance, which in my understanding 11:53:10

24 is adverse event reporting, could be an 11:53:12

25 important resource for the company. 11:53:18

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1 Also, this statement -- may I 11:53:20

2 say something else, please? 11:53:22

3 Q. Of course. 11:53:24

4 A. So this document, it switches 11:53:24

5 back and forth, so it's confusing in terms of 11:53:26

6 they're talking about "the company," 11:53:30

7 Mallinckrodt, but then "our company," 11:53:33

8 indicating IntegriChain. 11:53:36

9 So it's difficult to -- to 11:53:38

10 define every sentence and under -- 11:53:43

11 Q. Sure. Fair enough. 11:53:46

12 A. Thank you. Thank you. 11:53:47

13 Q. Fair enough. And we can put 11:53:47

14 the document aside because I don't mean to 11:53:49

15 put you through a memory test of the actual 11:53:51

16 document. 11:53:53

17 A. Okay. 11:53:53

18 Q. I would just ask you separately 11:53:53

19 whether or not you believe detailed data is 11:53:55

20 an important resource for the company to 11:53:57

21 utilize in trying to detect diversion. 11:54:00

22 A. Yes. In general, yes. 11:54:03

23 Q. Okay. And a moment ago when 11:54:04

24 you were talking about what your 11:54:06

25 understanding of pharmacovigilance is, you 11:54:06

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1 described it as being a report of adverse 11:54:08

2 events, correct? 11:54:10

3 A. Yes. 11:54:11

4 Q. Why would -- why would not 11:54:12

5 considering an adverse event be a fruitful 11:54:17

6 thing to do in connection with trying to 11:54:20

7 detect suspicious orders? 11:54:22

8 MR. O'CONNOR: Objection to 11:54:23

9 form. 11:54:24

10 THE WITNESS: Adverse events 11:54:25

11 were handled by patient and product 11:54:27

12 monitoring, and they were events such 11:54:30

13 as a doctor had a patient on the 11:54:34

14 operating table and had administered a 11:54:35

15 Mallinckrodt medication and there was 11:54:37

16 some unexpected symptom occurring. So 11:54:38

17 it was like a hotline of 11:54:44

18 pharmacovigilance. 11:54:47

19 QUESTIONS BY MR. KO: 11:54:49

20 Q. Okay. And was that -- did -- 11:54:49

21 during your time at Mallinckrodt, did you 11:54:51

22 ever receive -- or were you aware of any 11:54:54

23 adverse event reports related to diversion? 11:55:00

24 MR. O'CONNOR: Objection to 11:55:02

25 form. 11:55:03

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1 THE WITNESS: Yes. 11:55:03

2 QUESTIONS BY MR. KO: 11:55:08

3 Q. Okay. And did you -- during 11:55:08

4 your time at Mallinckrodt, did you ever 11:55:13

5 receive or were you aware of any adverse 11:55:15

6 event reports related to the abuse of 11:55:18

7 prescription opioids manufactured by 11:55:20

8 Mallinckrodt? 11:55:23

9 A. Yes. 11:55:24

10 Q. Okay. And notwithstanding the 11:55:27

11 fact that some of these adverse event reports 11:55:29

12 included instances of diversion and abuse, 11:55:31

13 you don't believe that it was necessary to 11:55:35

14 include these -- or consider these reports in 11:55:37

15 connection with Mallinckrodt's duties to 11:55:40

16 implement and design a suspicious order 11:55:42

17 monitoring program? 11:55:44

18 MR. O'CONNOR: Objection to 11:55:44

19 form. 11:55:46

20 THE WITNESS: So this was one 11:55:46

21 of the tools that was offered to us, 11:55:49

22 among many, and eventually we realized 11:55:51

23 that we had the chargeback tool which 11:55:55

24 could give us the detailed data about 11:56:00

25 the Mallinckrodt product, whereas 11:56:03

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1	IntegriChain was talking about the	11:56:05	1	answer to the extent answering his	11:57:52
2	universe of products not specific to	11:56:07	2	question would reveal any	11:57:54
3	Mallinckrodt.	11:56:08	3	conversations you had with company	11:57:56
4	QUESTIONS BY MR. KO:	11:56:08	4	counsel.	11:57:57
5	Q. Sure. And I understand --	11:56:09	5	THE WITNESS: Okay. I can	11:57:58
6	maybe it'll help to put the document aside.	11:56:10	6	answer because it did not relate to	11:58:01
7	A. Okay.	11:56:13	7	conversation with company counsel.	11:58:04
8	Q. I really don't have any more	11:56:13	8	QUESTIONS BY MR. KO:	11:58:05
9	questions on it. I was just asking with	11:56:14	9	Q. Okay.	11:58:05
10	respect to your statement about	11:56:16	10	A. The adverse event that was	11:58:05
11	pharmacovigilance and adverse --	11:56:18	11	reported was a result of someone -- the	11:58:08
12	A. Uh-huh.	11:56:18	12	allegation was stealing fentanyl patches from	11:58:12
13	Q. -- event reports in particular.	11:56:19	13	a glove compartment of a car that was hot.	11:58:16
14	You had suggested that it was	11:56:19	14	Fentanyl, the active ingredient is activated	11:58:19
15	not necessary to review adverse event reports	11:56:24	15	by heat. And so the person who suffered the	11:58:21
16	in connection with Mallinckrodt's duties to	11:56:27	16	adverse event had stolen the fentanyl,	11:58:24
17	design and implement an SOM program.	11:56:33	17	allegedly, taken it and, yes, overdosed. And	11:58:27
18	Is that what you testified to?	11:56:35	18	I don't know if they expired or not. I know	11:58:32
19	MR. O'CONNOR: Objection to	11:56:37	19	there was a medical emergency.	11:58:35
20	form.	11:56:37	20	Q. Isn't that an example of	11:58:37
21	THE WITNESS: Yes.	11:56:37	21	diversion leading to an opioid overdose?	11:58:39
22	QUESTIONS BY MR. KO:	11:56:38	22	A. Yes, it's diversion at the	11:58:41
23	Q. Okay. And my question is, why	11:56:38	23	patient level, yes.	11:58:47
24	would you not consider such adverse event	11:56:39	24	Q. Okay. And diversion at the	11:58:47
25	reports relating to the abuse and diversion	11:56:42	25	patient level is something that would be	11:58:49
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1	of Mallinckrodt prescription opioids that	11:56:44	1	important for you to understand that is	11:58:52
2	were contained in such adverse event reports	11:56:47	2	occurring in connection with your duties as	11:58:53
3	as you testified?	11:56:49	3	someone responsible for designing and	11:58:57
4	A. Okay. Please, I'd like to take	11:56:50	4	implementing a system to detect suspicious	11:59:00
5	a break and confer with my attorneys on this	11:56:54	5	orders, is it not?	11:59:03
6	answer.	11:56:56	6	MR. O'CONNOR: Objection to	11:59:04
7	MR. KO: Okay.	11:56:57	7	form.	11:59:05
8	MR. O'CONNOR: Answer the	11:56:57	8	THE WITNESS: So it's	11:59:05
9	pending question.	11:57:00	9	impossible, completely impossible. We	11:59:12
10	THE WITNESS: Because the	11:57:01	10	can monitor potentially down to the	11:59:14
11	adverse events that came to my	11:57:03	11	pharmacy level, but once the	11:59:15
12	attention were notices of document	11:57:04	12	prescription is dispensed, we cannot	11:59:17
13	retention notice of litigation against	11:57:09	13	prevent diversion when it gets into a	11:59:21
14	the company for people who took	11:57:11	14	private person's hands.	11:59:24
15	fentanyl -- various -- various	11:57:19	15	QUESTIONS BY MR. KO:	11:59:25
16	episodes that resulted in abuse or a	11:57:22	16	Q. I know that you may think that	11:59:26
17	lawsuit against the company as a	11:57:27	17	you cannot prevent diversion, but my question	11:59:27
18	result of perceived Mallinckrodt	11:57:30	18	is simply whether or not it would be	11:59:30
19	responsibility.	11:57:33	19	important to know whether Mallinckrodt drugs	11:59:33
20	QUESTIONS BY MR. KO:	11:57:34	20	were being diverted in instances like you	11:59:36
21	Q. Okay. And with respect to that	11:57:35	21	just described.	11:59:39
22	example in particular about the fentanyl	11:57:37	22	A. Yes.	11:59:41
23	episode, that was related to an overdose?	11:57:41	23	MR. O'CONNOR: Objection to	11:59:42
24	MR. O'CONNOR: And just for	11:57:48	24	form.	11:59:43
25	clarity, I'm instructing you not to	11:57:49	25		

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<p>1 QUESTIONS BY MR. KO: 11:59:43</p> <p>2 Q. And in particular, it would be 11:59:43</p> <p>3 important to know -- if there were thousands 11:59:45</p> <p>4 of overdoses that resulted from diversion of 11:59:46</p> <p>5 Mallinckrodt drugs, that would be important 11:59:50</p> <p>6 to know in connection with your duties as 11:59:52</p> <p>7 a -- someone responsible for implementing an 11:59:55</p> <p>8 SOM program, correct? 11:59:58</p> <p>9 MR. O'CONNOR: Objection to 11:59:59</p> <p>10 form. 11:59:59</p> <p>11 THE WITNESS: So will you 11:59:59</p> <p>12 please repeat the question? I'm 12:00:03</p> <p>13 sorry. 12:00:04</p> <p>14 QUESTIONS BY MR. KO: 12:00:04</p> <p>15 Q. Sure. 12:00:04</p> <p>16 If there were thousands of 12:00:04</p> <p>17 overdoses that resulted from the diversion of 12:00:06</p> <p>18 Mallinckrodt drugs, that would be important 12:00:08</p> <p>19 to know in connection with your duties as 12:00:11</p> <p>20 someone responsible for implementing an SOM 12:00:13</p> <p>21 program, correct? 12:00:15</p> <p>22 MR. O'CONNOR: Objection. 12:00:16</p> <p>23 THE WITNESS: Yes. So the 12:00:17</p> <p>24 question is hypothetical -- yes, 12:00:20</p> <p>25 thousands, yes, that would have been a 12:00:21</p>	<p>1 have Exhibit 6 in front of you? 12:13:58</p> <p>2 A. It's Exhibit 2. 12:14:00</p> <p>3 Q. Oh, Exhibit 2. Okay. You can 12:14:01</p> <p>4 set that aside. 12:14:02</p> <p>5 I'm going to hand you a copy of 12:14:03</p> <p>6 what's previously been marked as Exhibit 21 12:14:04</p> <p>7 of the Stewart deposition. 12:14:06</p> <p>8 MR. KO: And for the record, 12:14:18</p> <p>9 this is -- ends in Bates 274111, and 12:14:20</p> <p>10 it is an e-mail from Cathy Stewart to 12:14:26</p> <p>11 several people, and you are among the 12:14:29</p> <p>12 recipients. 12:14:32</p> <p>13 QUESTIONS BY MR. KO: 12:14:32</p> <p>14 Q. Do you see that? 12:14:32</p> <p>15 A. I do. 12:14:32</p> <p>16 Q. And it's dated May 14, 2008, 12:14:33</p> <p>17 correct? 12:14:35</p> <p>18 A. Yes. 12:14:35</p> <p>19 Q. And by the way, who is -- or 12:14:36</p> <p>20 you know Cathy Stewart, right? 12:14:37</p> <p>21 A. Yes. 12:14:39</p> <p>22 Q. You worked with her in 12:14:40</p> <p>23 connection with SOM procedure -- 12:14:42</p> <p>24 A. Yes. 12:14:44</p> <p>25 Q. -- and activities? 12:14:44</p>
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<p>1 concern. 12:00:23</p> <p>2 QUESTIONS BY MR. KO: 12:00:23</p> <p>3 Q. And overdose deaths that result 12:00:28</p> <p>4 from someone taking a pill from a patient is 12:00:32</p> <p>5 a sign of diversion, is it not? 12:00:35</p> <p>6 MR. O'CONNOR: Objection. 12:00:38</p> <p>7 Form. 12:00:40</p> <p>8 THE WITNESS: It's a form of 12:00:40</p> <p>9 diversion. It's misuse of a 12:00:42</p> <p>10 prescription drug, yes. 12:00:43</p> <p>11 MR. O'CONNOR: Counsel, we've 12:00:46</p> <p>12 been going almost an hour and a half. 12:00:47</p> <p>13 Should we take another break? 12:00:48</p> <p>14 MR. KO: Yeah, I was just going 12:00:50</p> <p>15 to say it's time for a break. 12:00:52</p> <p>16 VIDEOGRAPHER: We are going off 12:00:54</p> <p>17 the record at 12 p.m. 12:00:55</p> <p>18 (Off the record at 12:00 p.m.) 12:00:58</p> <p>19 VIDEOGRAPHER: We are back on 12:13:39</p> <p>20 the record at 12:13 p.m. 12:13:43</p> <p>21 QUESTIONS BY MR. KO: 12:13:45</p> <p>22 Q. Welcome back from the break, 12:13:47</p> <p>23 Ms. Harper. 12:13:49</p> <p>24 A. Thank you. 12:13:50</p> <p>25 Q. Going back to the -- do you 12:13:50</p>	<p>1 A. (Witness nods head.) 12:14:46</p> <p>2 Q. Okay. And do you respect her 12:14:46</p> <p>3 opinions? 12:14:48</p> <p>4 A. Yes. 12:14:48</p> <p>5 Q. Okay. And did you work with 12:14:49</p> <p>6 her closely throughout the 2008 and 2012 time 12:14:51</p> <p>7 period? 12:14:54</p> <p>8 A. I can't -- she wasn't in that 12:14:54</p> <p>9 role for an extremely long time, so I don't 12:14:56</p> <p>10 know when she left, I'm sorry. 12:14:58</p> <p>11 Q. Did you work with her closely 12:15:00</p> <p>12 in connection with SOM-related activities at 12:15:01</p> <p>13 Mallinckrodt in the 2007, 2008 time period? 12:15:04</p> <p>14 A. I don't know when she started. 12:15:07</p> <p>15 Clearly it was in May of 2008, but I don't 12:15:12</p> <p>16 know the start or the end date of when she 12:15:15</p> <p>17 became part of the initiative. 12:15:18</p> <p>18 Q. And you attended a -- you 12:15:21</p> <p>19 attended a conference with her -- 12:15:27</p> <p>20 A. Yes. 12:15:28</p> <p>21 Q. -- in 2008, correct? 12:15:29</p> <p>22 A. Yes. 12:15:30</p> <p>23 Q. And this was, I believe, in 12:15:30</p> <p>24 October of 2008, and it was the Buzzeo 12:15:32</p> <p>25 conference? 12:15:36</p>

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1 A. Yes. 12:15:36
 2 Q. And I know that postdates the 12:15:36
 3 date of this letter, but do you recall anyone 12:15:38
 4 else attending that conference other than you 12:15:42
 5 and Cathy from Mallinckrodt? 12:15:45
 6 A. I do not. 12:15:47
 7 Q. Okay. So as far as you recall, 12:15:48
 8 you were the only -- you and Cathy were the 12:15:55
 9 only two that attended the Buzzeo conference 12:15:57
 10 in 2008? 12:16:00
 11 A. Yes. 12:16:01
 12 Q. And what was her position 12:16:01
 13 during the 2008 time period? 12:16:03
 14 A. Manager of dosage customer 12:16:04
 15 service. 12:16:09
 16 Q. Okay. So she was a customer 12:16:09
 17 service rep -- or sorry, excuse me. She was 12:16:11
 18 involved in the customer service group, 12:16:14
 19 correct? 12:16:16
 20 A. Correct. The reps reported to 12:16:16
 21 her. 12:16:17
 22 Q. Right. 12:16:18
 23 And so she, at least of this 12:16:18
 24 time, was having some involvement in the 12:16:23
 25 revising of Mallinckrodt's SOM program; is 12:16:25

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1 that fair to say? 12:16:29
 2 A. Yes. 12:16:29
 3 Q. Okay. And also it appears that 12:16:30
 4 at this time the customer service group is 12:16:33
 5 having some involvement in the implementation 12:16:35
 6 of the revised SOM program. 12:16:38
 7 Separate and apart from what 12:16:39
 8 the e-mail says, is it your recollection that 12:16:41
 9 the customer service group had some 12:16:44
 10 involvement in the revising of Mallinckrodt's 12:16:45
 11 SOM program in 2008? 12:16:47
 12 MR. O'CONNOR: Objection to 12:16:49
 13 form. 12:16:50
 14 THE WITNESS: Yes. 12:16:50
 15 QUESTIONS BY MR. KO: 12:16:50
 16 Q. Okay. Ms. Stewart says that -- 12:16:51
 17 in particular that she is advising everyone 12:17:00
 18 on this e-mail that she is working with you 12:17:03
 19 and Mr. Harper to develop procedures to 12:17:06
 20 ensure that Mallinckrodt maintains compliance 12:17:11
 21 with DEA requirements to identify suspicious 12:17:15
 22 orders; is that correct? 12:17:18
 23 A. So I'm Harper, and it talks 12:17:18
 24 about working with me and Bill Ratliff. 12:17:21
 25 Q. Right. 12:17:23

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1 A. Yes. 12:17:23
 2 Q. So Ms. Stewart is at this time, 12:17:24
 3 as of May 14, 2008, working with you and 12:17:27
 4 Mr. Ratliff to specifically ensure that 12:17:32
 5 Mallinckrodt maintains compliance with DEA 12:17:40
 6 requirements related to identification of 12:17:42
 7 suspicious orders, correct? 12:17:44
 8 A. I don't see the word 12:17:45
 9 "specifically," but, yes, she was assisting 12:17:49
 10 with enhancing the program. 12:17:52
 11 Q. Okay. And then she also 12:17:55
 12 mentioned -- mentions that "in light of the 12:17:57
 13 recent developments with McKesson, a good 12:17:59
 14 deal of focus is being placed on this 12:18:02
 15 project." 12:18:03
 16 Do you see that? 12:18:04
 17 A. I do. 12:18:04
 18 Q. And is she referring to a DEA 12:18:05
 19 investigation that ultimately resulted in a 12:18:08
 20 DEA action against McKesson in the early 2008 12:18:12
 21 time period? 12:18:16
 22 A. Yes. 12:18:16
 23 Q. Okay. And McKesson, as we 12:18:17
 24 mentioned before, is a -- is one of the -- or 12:18:21
 25 one of the major distributors that faced DEA 12:18:23

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1 scrutiny regarding their distribution of 12:18:25
 2 prescription opioids, correct? 12:18:28
 3 A. Yes. 12:18:29
 4 Q. Okay. Now, she goes on to 12:18:32
 5 describe generally when an order is deemed 12:18:34
 6 peculiar by a customer service rep. 12:18:41
 7 Do you see that? 12:18:42
 8 A. Uh-huh. Yes. 12:18:42
 9 Q. And she says that "an order is 12:18:44
 10 deemed peculiar by a customer service rep 12:18:50
 11 based on a set of guidelines currently being 12:18:52
 12 developed." 12:18:56
 13 Do you see that reference? 12:18:56
 14 First sentence of the second 12:19:05
 15 paragraph. 12:19:07
 16 A. Yes, yes, yes, I see it. Yes, 12:19:07
 17 thank you. 12:19:08
 18 Q. So fair to say as of May 14, 12:19:08
 19 2008, Mallinckrodt is developing certain 12:19:13
 20 guidelines to determine whether or not an 12:19:15
 21 order is peculiar? 12:19:17
 22 A. It's not correct. 12:19:20
 23 Q. Okay. Is it -- is that -- is 12:19:21
 24 your testimony that it's not correct because 12:19:24
 25 you always had a system to determine whether 12:19:25

<p style="text-align: right;">Page 190</p> <p>1 or not an order was peculiar? 12:19:28</p> <p>2 A. That's correct. 12:19:29</p> <p>3 Q. Okay. So is it fair to say 12:19:30</p> <p>4 that as of May 14, 2008, you are revising the 12:19:31</p> <p>5 set of guidelines to determine whether or not 12:19:37</p> <p>6 it's peculiar? 12:19:39</p> <p>7 A. Yes. 12:19:40</p> <p>8 Q. Okay. And what is the 12:19:41</p> <p>9 difference from your perspective between a 12:19:47</p> <p>10 peculiar order and a suspicious order? 12:19:49</p> <p>11 A. We -- at different times with 12:19:51</p> <p>12 the enhancements of our program, we called 12:19:58</p> <p>13 orders "peculiar," we called orders 12:20:01</p> <p>14 "unusual," and we called orders "suspicious." 12:20:03</p> <p>15 So at this time, the peculiar order was 12:20:06</p> <p>16 something that came to our attention and 12:20:10</p> <p>17 warranted additional review but was not 12:20:14</p> <p>18 necessarily deemed to be suspicious. 12:20:17</p> <p>19 Q. Okay. So a peculiar order, if 12:20:19</p> <p>20 I understand your testimony correctly, is not 12:20:21</p> <p>21 necessarily synonymous with a suspicious 12:20:23</p> <p>22 order; is that correct? 12:20:26</p> <p>23 A. Correct. 12:20:26</p> <p>24 Q. Okay. And if I understand both 12:20:28</p> <p>25 this e-mail and some other documents I've 12:20:32</p>	<p style="text-align: right;">Page 192</p> <p>1 could have been anything that came to the 12:21:34</p> <p>2 customer service rep's attention as them 12:21:35</p> <p>3 being familiar with the account. 12:21:39</p> <p>4 Q. Okay. Because as you testified 12:21:41</p> <p>5 previously, they were your eyes and ears to 12:21:43</p> <p>6 the customer, correct? 12:21:47</p> <p>7 A. That was the NAMs. But, yes, 12:21:48</p> <p>8 the customer service reps were veterans with 12:21:49</p> <p>9 the accounts, and, yes, they knew the 12:21:51</p> <p>10 customers. 12:21:56</p> <p>11 Q. So would you agree -- because I 12:21:56</p> <p>12 realize that you are trying to make a 12:22:04</p> <p>13 distinction between the NAMs and the CSRs. 12:22:08</p> <p>14 But would it be fair to say 12:22:11</p> <p>15 that the CSRs had deep knowledge about the 12:22:12</p> <p>16 customers? 12:22:16</p> <p>17 MR. O'CONNOR: Objection to 12:22:16</p> <p>18 form. 12:22:17</p> <p>19 QUESTIONS BY MR. KO: 12:22:17</p> <p>20 Q. Of Mallinckrodt? 12:22:17</p> <p>21 A. I wouldn't use the term "deep 12:22:18</p> <p>22 knowledge." They had knowledge of the 12:22:22</p> <p>23 customers from the customer service 12:22:24</p> <p>24 perspective. 12:22:26</p> <p>25 Q. Okay. And when you said 12:22:27</p>
<p style="text-align: right;">Page 191</p> <p>1 reviewed, my understanding is that once an 12:20:35</p> <p>2 order is identified as peculiar, certain 12:20:38</p> <p>3 people make the determination of whether or 12:20:42</p> <p>4 not the order is ultimately suspicious 12:20:44</p> <p>5 sufficient to notify the DEA; is that 12:20:46</p> <p>6 accurate? 12:20:48</p> <p>7 MR. O'CONNOR: Objection to 12:20:48</p> <p>8 form. 12:20:49</p> <p>9 THE WITNESS: Yes. 12:20:49</p> <p>10 QUESTIONS BY MR. KO: 12:20:50</p> <p>11 Q. Okay. And so for purposes of 12:20:50</p> <p>12 this e-mail from Ms. Stewart to you, among 12:20:54</p> <p>13 others, she is discussing a revision of what 12:20:58</p> <p>14 determines a peculiar order, correct? 12:21:03</p> <p>15 A. A peculiar order as recognized 12:21:05</p> <p>16 by customer service. 12:21:11</p> <p>17 Q. Okay. 12:21:12</p> <p>18 A. Yes. 12:21:12</p> <p>19 Q. And is it accurate to say that 12:21:13</p> <p>20 a peculiar order -- whether or not an order 12:21:17</p> <p>21 was deemed peculiar was based on an 12:21:22</p> <p>22 algorithm, as we discussed earlier; is that 12:21:25</p> <p>23 correct? 12:21:29</p> <p>24 A. That was one of the reasons, 12:21:29</p> <p>25 but in the case of a customer service rep, it 12:21:31</p>	<p style="text-align: right;">Page 193</p> <p>1 earlier that the NAMs were your eyes and 12:22:29</p> <p>2 ears, would you also say that the customer 12:22:34</p> <p>3 service reps to some extent were the eyes and 12:22:36</p> <p>4 ears for the Mallinckrodt business as well? 12:22:38</p> <p>5 A. If you use the term -- making 12:22:40</p> <p>6 an inferential leap, because the customer 12:22:45</p> <p>7 service reps didn't see the customers or -- 12:22:48</p> <p>8 they talked to the customers and took 12:22:50</p> <p>9 customer orders. 12:22:52</p> <p>10 Q. Okay. Let me make sure I 12:22:53</p> <p>11 understand it. 12:22:55</p> <p>12 They didn't see the customers, 12:22:55</p> <p>13 but they talked to them? 12:22:57</p> <p>14 A. Yes. 12:22:58</p> <p>15 Q. Okay. So they didn't actually 12:22:58</p> <p>16 visit them like the NAMs did, but they would 12:23:00</p> <p>17 speak to them via telephone only? 12:23:03</p> <p>18 MR. O'CONNOR: Objection to 12:23:05</p> <p>19 form. 12:23:06</p> <p>20 THE WITNESS: Correct. 12:23:06</p> <p>21 QUESTIONS BY MR. KO: 12:23:06</p> <p>22 Q. But the CSRs had, through these 12:23:06</p> <p>23 conversations, presumably had knowledge about 12:23:10</p> <p>24 the customers, correct? 12:23:11</p> <p>25 A. Yes. 12:23:13</p>

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1 Q. Turning back to this 12:23:20
2 distinction between peculiar and suspicious, 12:23:21
3 do you ever recall an instance in which an 12:23:23
4 order was identified as suspicious but not 12:23:25
5 peculiar? 12:23:30
6 A. I don't know that answer. 12:23:31
7 Q. Okay. Do you ever recall an 12:23:32
8 instance in which an order was identified as 12:23:36
9 unusual but not peculiar? 12:23:38
10 A. I can't say. I'm sorry. 12:23:39
11 Q. Okay. Is it accurate to 12:23:43
12 describe at least the -- well, strike that. 12:23:45
13 Prior to the revision of the 12:23:50
14 SOM program in 2008 that's reflected in these 12:23:55
15 e-mails that we're going over, is it accurate 12:24:00
16 to say that an order was first -- an 12:24:04
17 evaluation was made first about whether or 12:24:10
18 not an order was peculiar, separate and apart 12:24:11
19 from an analysis of whether or not an order 12:24:14
20 was suspicious? 12:24:15
21 MR. O'CONNOR: Objection to 12:24:16
22 form. 12:24:17
23 THE WITNESS: It appeared, yes. 12:24:17
24 That was a term that we used, yes. 12:24:21
25

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1 QUESTIONS BY MR. KO: 12:24:23
2 Q. So in addition to it being a 12:24:24
3 term that you used, is it accurate to say 12:24:26
4 that at Mallinckrodt, before making a 12:24:28
5 determination with respect to whether an 12:24:31
6 order was suspicious, the existing SOM 12:24:33
7 program at the time determined first whether 12:24:37
8 an order was peculiar? 12:24:39
9 A. Yes, that was the term we used, 12:24:42
10 yes. 12:24:46
11 Q. And then once an order was 12:24:46
12 deemed to be peculiar, you subsequently made 12:24:48
13 a determination of whether or not that order 12:24:50
14 was suspicious, correct? 12:24:53
15 A. Yes. 12:24:55
16 Q. Okay. And you had mentioned a 12:24:56
17 moment ago that there were other 12:25:11
18 circumstances besides the algorithm that 12:25:14
19 would potentially make an order peculiar. 12:25:17
20 Do you recall that? 12:25:20
21 A. Yes. I'm using the terms 12:25:21
22 "peculiar," "suspicious," "unusual," 12:25:26
23 interchangeably, yes. 12:25:31
24 Q. Okay. Well, I would not like 12:25:32
25 to use those words interchangeably -- 12:25:35

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1 A. Okay. All right. Okay. Thank 12:25:35
2 you. 12:25:35
3 Q. -- and I'm trying to understand 12:25:35
4 the distinctions between them. 12:25:39
5 A. Okay. Thank you. 12:25:40
6 Q. So with respect to 12:25:42
7 identification of a peculiar order, you had 12:25:43
8 previously testified that if an order met a 12:25:44
9 certain threshold by an algorithm determined 12:25:53
10 by Mallinckrodt, it would be deemed peculiar. 12:25:55
11 MR. O'CONNOR: Objection to 12:25:58
12 form. 12:25:59
13 QUESTIONS BY MR. KO: 12:25:59
14 Q. Correct? 12:25:59
15 A. Correct. 12:25:59
16 Q. And in addition to the 12:26:00
17 algorithm triggering a peculiar order, you 12:26:03
18 had also testified that there were other 12:26:06
19 circumstances that may indicate an order was 12:26:08
20 peculiar as identified by a customer service 12:26:11
21 rep, correct? 12:26:14
22 A. Correct. 12:26:14
23 Q. Okay. And who other than the 12:26:15
24 CSRs had a responsibility or an obligation to 12:26:20
25 determine whether or not this order was 12:26:26

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1 peculiar? 12:26:28
2 MR. O'CONNOR: Objection to 12:26:28
3 form. 12:26:29
4 THE WITNESS: Peculiar, using 12:26:29
5 the strictest definition of the term. 12:26:37
6 The national account managers, if they 12:26:43
7 saw something when they were at the 12:26:43
8 accounts, the customer service review 12:26:43
9 and the peculiar order algorithm 12:26:50
10 detection, yes. 12:26:50
11 QUESTIONS BY MR. KO: 12:26:52
12 Q. Okay. So I'm setting aside the 12:26:52
13 algorithm detection. 12:26:54
14 A. Okay. 12:26:55
15 Q. So for purposes of identifying 12:26:56
16 an order as peculiar, do you recall any 12:26:59
17 instances in the 2007 through 2010 time 12:27:00
18 period in which orders were identified as 12:27:03
19 peculiar by either a CSR or an NAM, separate 12:27:05
20 and apart from whether or not an algorithm 12:27:10
21 triggered the order to be peculiar? 12:27:14
22 A. Yes. 12:27:17
23 Q. Okay. And other than the CSRs 12:27:18
24 and the NAMs, did anyone else have 12:27:22
25 responsibility with respect to determining 12:27:25

<p style="text-align: right;">Page 198</p> <p>1 whether or not that order was peculiar? 12:27:26</p> <p>2 Separate and apart from the algorithm. 12:27:32</p> <p>3 A. Separate from the algorithm? 12:27:33</p> <p>4 So may I ask a question, 12:27:37</p> <p>5 please? 12:27:38</p> <p>6 Q. Sure. 12:27:38</p> <p>7 A. So there was -- we spoke 12:27:39</p> <p>8 earlier about a circumstance where a DEA 12:27:40</p> <p>9 investigator contacted Mallinckrodt. It was 12:27:44</p> <p>10 a compounding pharmacy. So I don't know if 12:27:48</p> <p>11 that was within the same time frame. 12:27:50</p> <p>12 But so my point is, peculiar 12:27:52</p> <p>13 order information could come from an external 12:27:56</p> <p>14 source, potentially. 12:27:59</p> <p>15 Q. Okay. So other than an 12:28:00</p> <p>16 external source or from some evaluation made 12:28:03</p> <p>17 by a CSR or an NAM, apart from the algorithm 12:28:06</p> <p>18 that triggered a peculiar order, were there 12:28:11</p> <p>19 any other circumstances in which a peculiar 12:28:15</p> <p>20 order was identified at Mallinckrodt? 12:28:19</p> <p>21 A. No. 12:28:20</p> <p>22 Q. Okay. Is it your understanding 12:28:21</p> <p>23 that Mallinckrodt could not ship a peculiar 12:28:30</p> <p>24 order without first conducting some sort of 12:28:37</p> <p>25 due diligence on that order? 12:28:38</p>	<p style="text-align: right;">Page 200</p> <p>1 necessary to determine whether or not that 12:29:18</p> <p>2 is, in fact, suspicious, correct? 12:29:21</p> <p>3 A. Correct. 12:29:22</p> <p>4 Q. So it's your testimony sitting 12:29:23</p> <p>5 here today that you did not always perform 12:29:27</p> <p>6 due diligence on peculiar orders before 12:29:29</p> <p>7 shipping them, correct? 12:29:31</p> <p>8 MR. O'CONNOR: Objection to 12:29:31</p> <p>9 form. 12:29:32</p> <p>10 THE WITNESS: Correct. 12:29:32</p> <p>11 QUESTIONS BY MR. KO: 12:29:33</p> <p>12 Q. Okay. Shipping of a peculiar 12:30:03</p> <p>13 order without doing due diligence would seem 12:30:04</p> <p>14 contradictory to what Ms. Stewart is trying 12:30:06</p> <p>15 to describe here, right? 12:30:10</p> <p>16 MR. O'CONNOR: Objection to 12:30:12</p> <p>17 form. 12:30:13</p> <p>18 THE WITNESS: Yes. 12:30:13</p> <p>19 QUESTIONS BY MR. KO: 12:30:16</p> <p>20 Q. Okay. And to be clear, so the 12:30:17</p> <p>21 record is clear, she is suggesting that if an 12:30:21</p> <p>22 order is deemed peculiar, it should be placed 12:30:23</p> <p>23 on hold and the DEA compliance group will be 12:30:26</p> <p>24 advised. 12:30:30</p> <p>25 Do you see that? 12:30:30</p>
<p style="text-align: right;">Page 199</p> <p>1 A. It is not. 12:28:39</p> <p>2 MR. O'CONNOR: Objection to 12:28:39</p> <p>3 form. 12:28:40</p> <p>4 QUESTIONS BY MR. KO: 12:28:40</p> <p>5 Q. It is not your understanding. 12:28:41</p> <p>6 So a peculiar order could ship 12:28:42</p> <p>7 without conducting due diligence then, 12:28:43</p> <p>8 correct? 12:28:45</p> <p>9 A. Correct. 12:28:45</p> <p>10 Q. Okay. So isn't that an unusual 12:28:46</p> <p>11 circumstance? 12:28:55</p> <p>12 MR. O'CONNOR: Objection to 12:28:55</p> <p>13 form. 12:28:57</p> <p>14 QUESTIONS BY MR. KO: 12:28:57</p> <p>15 Q. In other words, if you're not 12:28:57</p> <p>16 performing any -- earlier we made a 12:29:01</p> <p>17 distinction between peculiar and suspicious 12:29:03</p> <p>18 orders, correct? 12:29:05</p> <p>19 A. Correct. 12:29:05</p> <p>20 Q. And the latter is something 12:29:05</p> <p>21 that you ultimately have to report to the 12:29:07</p> <p>22 DEA, correct? 12:29:08</p> <p>23 A. Correct. 12:29:09</p> <p>24 Q. And we had also discussed about 12:29:09</p> <p>25 how evaluation of a peculiar order is 12:29:16</p>	<p style="text-align: right;">Page 201</p> <p>1 A. I do. 12:30:31</p> <p>2 Q. And in particular, Mr. Ratliff 12:30:32</p> <p>3 and you are the DEA compliance group as 12:30:34</p> <p>4 referenced by Ms. Stewart, correct? 12:30:38</p> <p>5 A. Correct. 12:30:39</p> <p>6 Q. And she also states that "DEA 12:30:40</p> <p>7 compliance will then conduct a more in-depth 12:30:44</p> <p>8 investigation and determine if the situation 12:30:47</p> <p>9 warrants notification to the DEA." 12:30:49</p> <p>10 Do you see that? 12:30:51</p> <p>11 A. I do see it. 12:30:52</p> <p>12 Q. And so your testimony, so the 12:30:53</p> <p>13 record is clear, is that that more in-depth 12:30:55</p> <p>14 investigation did not always occur, correct? 12:30:58</p> <p>15 MR. O'CONNOR: Objection to 12:30:59</p> <p>16 form. 12:31:00</p> <p>17 THE WITNESS: There were times 12:31:00</p> <p>18 that we shipped an order before the 12:31:01</p> <p>19 review was complete, but we never 12:31:03</p> <p>20 shipped a suspicious order. 12:31:06</p> <p>21 QUESTIONS BY MR. KO: 12:31:07</p> <p>22 Q. Okay. Well, separate and apart 12:31:08</p> <p>23 from the terminology now -- 12:31:09</p> <p>24 A. Okay. 12:31:10</p> <p>25 Q. -- the process as described by 12:31:11</p>

<p style="text-align: right;">Page 202</p> <p>1 Ms. Stewart and your testimony here today, 12:31:14</p> <p>2 after an order was deemed to be peculiar from 12:31:17</p> <p>3 a variety of means that we discussed, it was 12:31:22</p> <p>4 not always the case that the order was placed 12:31:26</p> <p>5 on hold and an in-depth investigation ensued, 12:31:30</p> <p>6 correct? 12:31:34</p> <p>7 MR. O'CONNOR: Objection to 12:31:34</p> <p>8 form. 12:31:34</p> <p>9 THE WITNESS: So the order was 12:31:34</p> <p>10 always placed on hold, but sometimes 12:31:35</p> <p>11 it was released from hold and shipped 12:31:37</p> <p>12 prior to the completion of the review. 12:31:39</p> <p>13 QUESTIONS BY MR. KO: 12:31:41</p> <p>14 Q. Okay. Now, a moment ago you 12:31:41</p> <p>15 said that you believe you never shipped a 12:32:03</p> <p>16 suspicious order, correct? 12:32:04</p> <p>17 A. Correct. 12:32:05</p> <p>18 Q. But that is just simply based 12:32:05</p> <p>19 on your understanding of whether or not that 12:32:09</p> <p>20 formal label was made by someone at 12:32:11</p> <p>21 Mallinckrodt, correct? 12:32:15</p> <p>22 MR. O'CONNOR: Objection to 12:32:17</p> <p>23 form. 12:32:18</p> <p>24 QUESTIONS BY MR. KO: 12:32:18</p> <p>25 Q. Let me ask a different way. 12:32:18</p>	<p style="text-align: right;">Page 204</p> <p>1 develop criteria for orders that deviate from 12:33:55</p> <p>2 normal ordering patterns and/or from unusual 12:33:57</p> <p>3 order frequency. Not yet sure how to capture 12:34:01</p> <p>4 this. Hope to identify an algorithm that 12:34:05</p> <p>5 will support a parsing through the data to 12:34:08</p> <p>6 identify patterns, frequency, et cetera." 12:34:10</p> <p>7 Did I read that correctly? 12:34:13</p> <p>8 A. Yes, you did. 12:34:14</p> <p>9 Q. So is it accurate to say that 12:34:15</p> <p>10 as the date of this e-mail, Mallinckrodt had 12:34:17</p> <p>11 not yet developed a criteria in its 12:34:18</p> <p>12 suspicious order monitoring system to 12:34:23</p> <p>13 identify orders that deviate from a normal 12:34:25</p> <p>14 ordering pattern? 12:34:27</p> <p>15 MR. O'CONNOR: Objection to 12:34:28</p> <p>16 form. 12:34:32</p> <p>17 THE WITNESS: Not correct. 12:34:35</p> <p>18 QUESTIONS BY MR. KO: 12:34:36</p> <p>19 Q. Okay. Is it correct to say 12:34:36</p> <p>20 that at the date of this e-mail, Mallinckrodt 12:34:37</p> <p>21 is working on revising the criteria for 12:34:39</p> <p>22 identifying orders that deviate from a normal 12:34:42</p> <p>23 ordering pattern? 12:34:44</p> <p>24 A. Yes. 12:34:44</p> <p>25 Q. And also accurate to say that 12:34:44</p>
<p style="text-align: right;">Page 203</p> <p>1 If you release an order without 12:32:20</p> <p>2 conducting an investigation or performing due 12:32:23</p> <p>3 diligence, that order could potentially be 12:32:26</p> <p>4 suspicious, could it not? 12:32:28</p> <p>5 MR. O'CONNOR: Objection to 12:32:30</p> <p>6 form. 12:32:30</p> <p>7 THE WITNESS: That's correct. 12:32:30</p> <p>8 QUESTIONS BY MR. KO: 12:32:31</p> <p>9 Q. Okay. And in particular, just 12:32:48</p> <p>10 to make sure the record is clear, if you 12:32:50</p> <p>11 release a peculiar order without conducting 12:32:53</p> <p>12 an investigation or performing due diligence, 12:32:55</p> <p>13 that peculiar order could potentially be 12:32:58</p> <p>14 suspicious, could it not? 12:33:00</p> <p>15 MR. O'CONNOR: Objection to 12:33:01</p> <p>16 form. 12:33:02</p> <p>17 THE WITNESS: It could. 12:33:02</p> <p>18 QUESTIONS BY MR. KO: 12:33:04</p> <p>19 Q. Okay. Okay. Now, if you turn 12:33:04</p> <p>20 to the second page of this e-mail -- it's 12:33:32</p> <p>21 unfortunately just a one-page document. 12:33:41</p> <p>22 A. Okay. Thank you. 12:33:42</p> <p>23 Q. And at the top, Ms. Stewart is 12:33:43</p> <p>24 indicating that "in addition to order 12:33:47</p> <p>25 quantities by product, we hope to also 12:33:52</p>	<p style="text-align: right;">Page 205</p> <p>1 at this time Mallinckrodt is revising its 12:34:46</p> <p>2 criteria for determining whether or not a 12:34:48</p> <p>3 usual -- an order that deviates from usual 12:34:53</p> <p>4 order frequency; is that correct? 12:34:56</p> <p>5 MR. O'CONNOR: Objection to 12:34:57</p> <p>6 form. 12:34:58</p> <p>7 THE WITNESS: Correct. 12:34:58</p> <p>8 QUESTIONS BY MR. KO: 12:34:58</p> <p>9 Q. And Ms. Stewart indicates that 12:34:59</p> <p>10 she's not sure how to capture this as of the 12:35:00</p> <p>11 date of this e-mail. 12:35:06</p> <p>12 Do you see that? 12:35:07</p> <p>13 A. I see that. 12:35:07</p> <p>14 Q. And so is it fair to say that 12:35:08</p> <p>15 you -- would you agree with this statement, 12:35:09</p> <p>16 that at the time you weren't sure how to 12:35:11</p> <p>17 capture this criteria in revising your SOM 12:35:12</p> <p>18 policy? 12:35:15</p> <p>19 A. We were working through the 12:35:16</p> <p>20 algorithm to understand -- there were several 12:35:18</p> <p>21 approaches to the analysis, and we had not 12:35:25</p> <p>22 settled on a specific one at this time. 12:35:28</p> <p>23 Q. Okay. And the algorithm at the 12:35:30</p> <p>24 time of the -- at the time of this e-mail, 12:35:35</p> <p>25 what was your understanding what the 12:35:36</p>

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<p>1 algorithm was? 12:35:37</p> <p>2 A. It was comparing a customer's 12:35:38</p> <p>3 order history to itself and flagging any 12:35:41</p> <p>4 order that exceeded a multiplier. 12:35:46</p> <p>5 Q. And at the time, do you recall 12:35:49</p> <p>6 what the multiplier was? 12:35:50</p> <p>7 A. I do not. 12:35:51</p> <p>8 Q. Do you recall if it was a 2X 12:35:52</p> <p>9 multiplier? 12:35:54</p> <p>10 A. I do not. 12:35:55</p> <p>11 Q. Okay. In the next paragraph, 12:35:56</p> <p>12 Ms. Stewart indicates that "the sales force 12:36:06</p> <p>13 will play a key role in this process by 12:36:07</p> <p>14 verifying the customer's physical site and 12:36:11</p> <p>15 operations ring true with the type of 12:36:14</p> <p>16 business they purport to run." 12:36:16</p> <p>17 Do you see that? 12:36:17</p> <p>18 A. I do. 12:36:17</p> <p>19 Q. Do you agree that the sales 12:36:18</p> <p>20 force would play this key role in trying to 12:36:20</p> <p>21 identify the customer's physical site and 12:36:22</p> <p>22 operations? 12:36:27</p> <p>23 A. That was a suggestion from Drug 12:36:27</p> <p>24 and Chemical Advisory Group that we did not 12:36:30</p> <p>25 implement. We used the sales force, but they 12:36:34</p>	<p>1 form. 12:37:48</p> <p>2 THE WITNESS: So again -- I'm 12:37:48</p> <p>3 sorry -- we've always had a program, 12:37:49</p> <p>4 so we were hoping to enhance it and 12:37:51</p> <p>5 introduce everyone to the enhancements 12:37:53</p> <p>6 at that time. 12:37:55</p> <p>7 QUESTIONS BY MR. KO: 12:37:55</p> <p>8 Q. Okay. And the enhanced 12:37:56</p> <p>9 version, just so the record is clear, extra 12:37:58</p> <p>10 attention to the enhanced version was given 12:38:02</p> <p>11 in early 2008, correct? 12:38:04</p> <p>12 A. Yes. 12:38:05</p> <p>13 Q. And it was your hope to roll 12:38:06</p> <p>14 out an enhanced version as quickly as 12:38:08</p> <p>15 possible; is that fair to say? 12:38:11</p> <p>16 A. Yes. 12:38:12</p> <p>17 Q. And it's important to roll out 12:38:13</p> <p>18 an enhanced SOM program because failure to do 12:38:15</p> <p>19 so would result in further diversion and 12:38:18</p> <p>20 abuse of -- potentially of Mallinckrodt 12:38:21</p> <p>21 opioids, correct? 12:38:24</p> <p>22 MR. O'CONNOR: Objection to 12:38:24</p> <p>23 form. 12:38:25</p> <p>24 THE WITNESS: So we always had 12:38:25</p> <p>25 a backbone program in place, and we 12:38:26</p>
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<p>1 did not play the key role in determining 12:36:35</p> <p>2 whether the customer was set up or not. 12:36:38</p> <p>3 Q. Okay. And to be clear, is the 12:36:40</p> <p>4 sales force discussed here and as you just 12:36:41</p> <p>5 testified to, are you talking about NAMs and 12:36:46</p> <p>6 CSRs or both? Or NAMs or CSRs or both? 12:36:48</p> <p>7 A. NAMs. 12:36:54</p> <p>8 Q. Okay. So the sales force 12:36:55</p> <p>9 described in this e-mail is just with respect 12:36:56</p> <p>10 to the national account managers, correct? 12:36:58</p> <p>11 A. Yes. 12:37:00</p> <p>12 Q. Okay. And you can set that 12:37:00</p> <p>13 aside. Thank you. 12:37:14</p> <p>14 Now, is it fair to say that in 12:37:21</p> <p>15 the early 2008 time period you were working 12:37:27</p> <p>16 on revising and revamping Mallinckrodt's SOM 12:37:28</p> <p>17 program? Is that accurate? 12:37:32</p> <p>18 A. Yes. 12:37:33</p> <p>19 MR. O'CONNOR: Objection to 12:37:33</p> <p>20 form. 12:37:34</p> <p>21 QUESTIONS BY MR. KO: 12:37:34</p> <p>22 Q. And you had hoped to roll out a 12:37:35</p> <p>23 formal SOM program at some -- as quickly as 12:37:40</p> <p>24 possible; is that fair to say? 12:37:45</p> <p>25 MR. O'CONNOR: Objection to 12:37:47</p>	<p>1 were enhancing the program. 12:38:29</p> <p>2 QUESTIONS BY MR. KO: 12:38:30</p> <p>3 Q. Did you feel that backbone SOM 12:38:32</p> <p>4 program was sufficient in terms of complying 12:38:34</p> <p>5 with your duties under the CSA? 12:38:36</p> <p>6 A. Yes. 12:38:38</p> <p>7 Q. Okay. Well, then why did you 12:38:39</p> <p>8 feel the need to enhance it? 12:38:41</p> <p>9 A. Because as time went on, we got 12:38:42</p> <p>10 further guidance from DEA. Any piece of 12:38:44</p> <p>11 information that we gleaned, we acted upon it 12:38:47</p> <p>12 immediately. And we led the industry in 12:38:51</p> <p>13 every aspect of enhancing our suspicious 12:38:53</p> <p>14 order monitoring program. 12:38:57</p> <p>15 Q. Okay. When you say you acted 12:38:57</p> <p>16 on everything "immediately," what does that 12:38:59</p> <p>17 mean? 12:39:03</p> <p>18 Did you act on advice from the 12:39:05</p> <p>19 DEA as soon as you heard it? Is that what 12:39:07</p> <p>20 your testimony is today? 12:39:12</p> <p>21 A. So immediately -- that was a 12:39:12</p> <p>22 poor choice of words. As soon as possible, 12:39:16</p> <p>23 yes. 12:39:18</p> <p>24 Q. Okay. And what does "as soon 12:39:19</p> <p>25 as possible" mean to you? 12:39:21</p>

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1	MR. O'CONNOR: Objection to	12:39:21	1	of this meeting in the first sentence	12:41:25
2	form.	12:39:22	2	underneath agenda, it states that "The	12:41:27
3	THE WITNESS: Depending upon	12:39:22	3	purpose of the meeting" -- and these calls --	12:41:33
4	varying amounts of time, depending how	12:39:24	4	"was to share information between sites and	12:41:37
5	long it would have taken to implement	12:39:27	5	to help each other gain a broader knowledge	12:41:39
6	the suggestion from DEA.	12:39:28	6	of the supply chain process."	12:41:41
7	QUESTIONS BY MR. KO:	12:39:29	7	Did I read that correctly?	12:41:43
8	Q. Okay. Was it your goal at the	12:39:30	8	A. Yes.	12:41:44
9	time that you were trying to enhance your SOM	12:39:32	9	Q. And so there were frequent	12:41:44
10	program in early 2008 to make revisions and	12:39:35	10	calls at the time to try and better	12:41:45
11	roll out a formal enhanced policy as quickly	12:39:38	11	understand and gain knowledge of the supply	12:41:47
12	as possible?	12:39:40	12	chain process?	12:41:51
13	A. Yes.	12:39:42	13	A. Yes.	12:41:51
14	Q. Okay. And when would you say	12:39:43	14	Q. Okay. And I just actually want	12:41:51
15	you actually rolled out a formal SOM policy	12:39:46	15	to turn to your portion of the	12:41:55
16	that satisfied you, as someone who was in	12:39:49	16	presentation -- or the notes that capture	12:41:59
17	charge of overseeing the SOM program?	12:39:53	17	your presentation, which is at the bottom of	12:42:00
18	MR. O'CONNOR: Objection to	12:39:54	18	page 2.	12:42:05
19	form.	12:39:56	19	Do you see where it says,	12:42:07
20	THE WITNESS: So the existing	12:39:56	20	"Karen gave a brief update on Covidien's	12:42:08
21	policy always satisfied me, but we	12:39:58	21	efforts"?	12:42:11
22	continued to work on enhancing our	12:40:00	22	A. I do see that.	12:42:12
23	policies.	12:40:02	23	Q. And by the way, Covidien is --	12:42:12
24	QUESTIONS BY MR. KO:	12:40:02	24	was your -- was the actual -- was the former	12:42:15
25	Q. Okay. And with respect to	12:40:03	25	employer -- was your former employer?	12:42:19
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1	enhancing it in particular as we discussed in	12:40:07	1	A. Right. Our company has changed	12:42:22
2	early 2008, when would you say that process	12:40:10	2	corporate structure and ownership, yes.	12:42:25
3	was actually complete?	12:40:13	3	Q. Thank you.	12:42:26
4	A. I can't answer that because	12:40:14	4	A. Yes.	12:42:26
5	enhancements are always ongoing. They're	12:40:18	5	Q. You put it more artfully than	12:42:27
6	ongoing up to today. So there's no start and	12:40:21	6	me.	12:42:28
7	stop time to the enhancements.	12:40:24	7	Covidien, at the time of	12:42:28
8	(Mallinckrodt-Harper Exhibit 6	12:40:27	8	2000 -- 2008, Mallinckrodt was essentially	12:42:33
9	marked for identification.)	12:40:27	9	Covidien. And so for purposes of this	12:42:35
10	QUESTIONS BY MR. KO:	12:40:27	10	deposition, when I refer to Covidien, it's	12:42:37
11	Q. Fair enough.	12:40:28	11	synonymous with Mallinckrodt; is that fair?	12:42:40
12	I'm going to hand you a copy of	12:40:28	12	A. That's fair.	12:42:43
13	what will be marked as Harper Exhibit 6.	12:40:30	13	Q. Okay. And you give a general	12:42:44
14	And for the record, this is --	12:40:41	14	overview of the SOM program, and you say that	12:42:50
15	ends in Bates stamp 387983.	12:40:42	15	your efforts are ongoing to, quote, "Improve	12:42:57
16	Ms. Harper, this appears to be	12:41:00	16	our current suspicious order monitoring	12:43:01
17	a June 17, 2008, DEA compliance all site	12:41:01	17	system in light of recent DEA actions with	12:43:05
18	conference call with notes attached to it.	12:41:06	18	other registrants regarding this law."	12:43:08
19	Is that accurate -- an accurate	12:41:09	19	Did I read that correctly?	12:43:10
20	description of the document?	12:41:13	20	A. Can you point that out to me,	12:43:10
21	A. Yes.	12:41:14	21	please, the sentence?	12:43:13
22	Q. And you were present at this	12:41:14	22	Q. Sure. I just highlighted it.	12:43:13
23	meeting? You're listed as an attendee?	12:41:15	23	It's at the top -- it's the first sentence	12:43:17
24	A. Yes.	12:41:17	24	underneath your portion of the presentation.	12:43:18
25	Q. And it appears that the purpose	12:41:17	25	A. So I see that that is what it	12:43:20

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1 reads, but I don't know that I published 12:43:24
 2 these notes or if Ms. Woznick was 12:43:26
 3 interpreting the discussion and documenting 12:43:32
 4 it -- 12:43:33
 5 Q. Fair enough. 12:43:35
 6 A. -- as she saw fit. 12:43:35
 7 Q. Fair enough. 12:43:37
 8 Would you agree with me that 12:43:37
 9 one of the reasons why you were seeking to 12:43:38
 10 improve Mallinckrodt's SOM system was in 12:43:41
 11 light of recent DEA actions at the time? 12:43:45
 12 A. Yes. 12:43:48
 13 Q. Okay. And the persons 12:43:51
 14 responsible on the bottom right-hand corner 12:43:56
 15 are listed as you and Eileen Spaulding. 12:44:03
 16 Do you see that? 12:44:06
 17 A. I do. 12:44:06
 18 Q. And so is it fair to say that 12:44:07
 19 based on this document, you and Eileen are 12:44:07
 20 the people responsible for implementing an 12:44:11
 21 improved SOM program at Mallinckrodt at this 12:44:15
 22 time? 12:44:17
 23 MR. O'CONNOR: Objection. 12:44:17
 24 Form. 12:44:18
 25 THE WITNESS: So not in 12:44:19

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1 isolation. We were members of the 12:44:20
 2 team, and we were the representatives 12:44:21
 3 of the DEA compliance group on the 12:44:22
 4 team, but there were others on the 12:44:25
 5 team. 12:44:26
 6 QUESTIONS BY MR. KO: 12:44:26
 7 Q. Okay. But you guys were -- is 12:44:26
 8 it fair to say that you were the team leaders 12:44:30
 9 of the SOM team, or do you disclaim that 12:44:31
 10 responsibility? 12:44:34
 11 A. I -- 12:44:34
 12 MR. O'CONNOR: Objection to 12:44:34
 13 form. 12:44:35
 14 THE WITNESS: The leader of the 12:44:35
 15 team was always the most senior 12:44:43
 16 official, so in one case it was JoAnne 12:44:44
 17 Levy. So I was a key contributor to 12:44:47
 18 the team, as was Eileen, but I don't 12:44:50
 19 know that I was ever designated as the 12:44:52
 20 team leader. 12:44:53
 21 QUESTIONS BY MR. KO: 12:44:54
 22 Q. Okay. So is it your testimony 12:44:54
 23 that you believe, as least as of the time 12:44:56
 24 that JoAnne Levy was your direct report, that 12:44:58
 25 she was the team leader of the SOM policy and 12:45:02

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1 program? 12:45:04
 2 A. I believe so, yes. 12:45:04
 3 Q. Okay. And then at other 12:45:07
 4 times -- I believe the name you referenced 12:45:14
 5 before was Todd? 12:45:15
 6 I'm sorry, who -- 12:45:17
 7 MR. O'CONNOR: Objection to 12:45:18
 8 form. 12:45:18
 9 QUESTIONS BY MR. KO: 12:45:18
 10 Q. Who did you report to after 12:45:19
 11 JoAnne Levy? 12:45:21
 12 A. Tom Berry. 12:45:21
 13 Q. Tom Berry. Thank you. 12:45:22
 14 A. Yeah. 12:45:24
 15 Q. So Mr. Berry, would you agree 12:45:24
 16 that after -- once you began reporting to 12:45:26
 17 Mr. Berry, would you say that Mr. Berry was 12:45:31
 18 the team leader for the SOM team? 12:45:34
 19 A. No. 12:45:36
 20 Q. Okay. At the time that you 12:45:36
 21 reported to Mr. Berry, would you say that you 12:45:37
 22 were the team leader of the SOM team? 12:45:39
 23 A. So I'm sorry to repeat, but 12:45:41
 24 there was no designated leader except in the 12:45:47
 25 case of JoAnne Levy, who was the senior 12:45:49

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1 official. Tom Berry was not as actively 12:45:52
 2 involved in the team because he was new to 12:45:55
 3 the controlled substances business, and so I 12:45:58
 4 would not state anyone's name specifically 12:46:01
 5 during this time period as the leader. 12:46:03
 6 Q. Separate and apart of whether 12:46:04
 7 or not there was an official designation, did 12:46:11
 8 you consider yourself, along with Eileen 12:46:13
 9 Spaulding, to the team leader of implementing 12:46:18
 10 an improved SOM program during the 2008 time 12:46:20
 11 period? 12:46:23
 12 A. Yes. I would consider it 12:46:23
 13 controlled substances compliance 12:46:25
 14 responsibility, and I was the leader of that 12:46:26
 15 group at that time, yes. 12:46:28
 16 Q. Okay. You thank. 12:46:29
 17 And this document indicates a 12:46:31
 18 deadline. Do you see that? 12:46:36
 19 A. I do see it. 12:46:37
 20 Q. And the deadline, according to 12:46:43
 21 this document, is fourth quarter 2008 fiscal 12:46:46
 22 year? 12:46:50
 23 A. Yes. 12:46:50
 24 Q. By the way, what was 12:46:50
 25 Mallinckrodt's fiscal year? 12:46:52

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1 A. At that time it ended in 12:46:53
2 October -- September. 12:46:57
3 Q. September. Okay. 12:46:58
4 So it was at least as of the 12:47:02
5 date of this call and the notes that were 12:47:05
6 drafted pursuant to this call that an 12:47:10
7 improved SOM program would be complete no 12:47:15
8 later than October of 2008? 12:47:18
9 MR. O'CONNOR: Objection to 12:47:19
10 form. 12:47:19
11 THE WITNESS: No, sir. 12:47:19
12 QUESTIONS BY MR. KO: 12:47:20
13 Q. Is that accurate or is that -- 12:47:21
14 A. No. 12:47:21
15 Q. That's incorrect? 12:47:22
16 A. That's incorrect. 12:47:23
17 Q. Okay. So what is this deadline 12:47:24
18 referring to? 12:47:25
19 A. The update that would be 12:47:26
20 provided on the next team call. 12:47:27
21 Q. Okay. So it wasn't necessarily 12:47:29
22 your goal to complete the SOM revisions by 12:47:31
23 fourth quarter of 2008? 12:47:35
24 A. No. 12:47:36
25 Q. Okay. Did you have a -- did 12:47:36

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1 you have a firm goal at any point in time 12:47:41
2 other than trying to effectuate an improved 12:47:43
3 SOM program as soon as possible? 12:47:46
4 A. No. 12:47:47
5 Q. Okay. By the way, turning back 12:47:48
6 to the first page, there are a list of 12:47:54
7 attendees. 12:48:00
8 Are all those people folks on 12:48:02
9 the DEA/controlled substance compliance team? 12:48:06
10 A. No. 12:48:10
11 Q. Okay. Which individuals were 12:48:11
12 not on the DEA compliance team? 12:48:13
13 A. Joe Ruffino. 12:48:15
14 Q. Okay. 12:48:23
15 A. And I can't be certain about 12:48:23
16 Patti Woznick. So Patti and Joe were in 12:48:27
17 purchasing, and dotted line, Hobart 12:48:30
18 compliance reported to Patti for a while, and 12:48:34
19 then they came into part of this 12:48:37
20 synchronized, coordinated group. So Patti 12:48:42
21 may or may not have been part of the team at 12:48:45
22 the time. 12:48:48
23 Q. Okay. So other than Joe and 12:48:48
24 potentially Patti, everyone else was a member 12:48:50
25 of the DEA compliance team? 12:48:52

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1 A. Yes. Well, we reported to 12:48:53
2 JoAnne Levy, yes. 12:48:55
3 MR. KO: Okay. And with that, 12:48:59
4 I think we can break for lunch. 12:49:00
5 THE WITNESS: Okay. 12:49:02
6 VIDEOGRAPHER: We are going off 12:49:02
7 the record at 12:49 p.m. 12:49:03
8 (Off the record at 12:49 p m.) 12:49:04
9 (Mallinckrodt-Harper Exhibit 7 13:37:59
10 marked for identification.) 13:36:59
11 VIDEOGRAPHER: We are back on 13:36:59
12 the record at 1:37 p m. 13:37:01
13 QUESTIONS BY MR. KO: 13:37:02
14 Q. Welcome back from lunch, 13:37:03
15 Ms. Harper. 13:37:06
16 A. Thank you. 13:37:07
17 Q. I appreciate your patience to 13:37:07
18 stay. We've got a few more hours to go. 13:37:09
19 I've handed you a copy of 13:37:12
20 what's been marked as Harper Exhibit 7. 13:37:14
21 And for the record, this 13:37:16
22 document ends in Bates 274572. 13:37:17
23 And this is a July 29, 2008, 13:37:21
24 e-mail from you to Mr. Ratliff; is that 13:37:25
25 correct? 13:37:27

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1 A. Yes. 13:37:27
2 Q. And this appears to be another 13:37:27
3 monthly report as of July 2008 that you are 13:37:29
4 sending on that we discussed previously 13:37:32
5 today? 13:37:35
6 A. Correct. 13:37:35
7 Q. In terms of we had discussed 13:37:36
8 the fact that you had sent monthly reports to 13:37:38
9 Mr. Ratliff. 13:37:42
10 And I just wanted to ask a few 13:37:43
11 questions on this document. 13:37:45
12 It appears here on the third 13:37:46
13 section down that you are working on a draft 13:37:48
14 of the SOM policy, and you indicate that 13:37:56
15 hopefully the final draft is close to 13:38:02
16 publication. 13:38:04
17 Do you see that? 13:38:05
18 A. I do see it. 13:38:05
19 Q. Is it accurate to say as of 13:38:06
20 July 29, 2008, you're working on a final 13:38:07
21 revised draft of the SOM policy? 13:38:10
22 A. Yes, as it stood at the time, 13:38:14
23 yes. 13:38:16
24 Q. And then you're awaiting 13:38:16
25 feedback from Ms. Stewart? 13:38:18

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1	A. Yes. 13:38:19	1	Mallinckrodt to begin with. 13:40:20
2	Q. And that you are hoping to 13:38:19	2	So then in that circumstance, 13:40:21
3	train and implement the revised SOM program 13:38:26	3	the distributor applies back to Mallinckrodt 13:40:23
4	in August, later that summer, correct? 13:38:28	4	to made whole -- to be made whole for that 13:40:25
5	A. Yes. 13:38:30	5	differential. So I'd like to point out that 13:40:28
6	Q. Okay. So at this point it's 13:38:31	6	all transactions are not subject to 13:40:32
7	still a work in progress, the revised SOM 13:38:32	7	chargebacks, and chargebacks are after the 13:40:34
8	program, correct? 13:38:35	8	fact, retrospective information. 13:40:36
9	MR. O'CONNOR: Objection to 13:38:36	9	Q. And when you say "all 13:40:39
10	form. 13:38:36	10	transactions are not subject to chargebacks," 13:40:41
11	THE WITNESS: Yes. Yes. 13:38:36	11	what you mean by that, if I understand you 13:40:44
12	QUESTIONS BY MR. KO: 13:38:38	12	correctly, is that, you know, chargeback only 13:40:47
13	Q. And at the bottom of this 13:38:38	13	occurs if a distributor or customer of 13:40:49
14	e-mail, there's another reference to 13:38:44	14	Mallinckrodt makes such a request to 13:40:50
15	IntegriChain. I don't want to ask you any 13:38:45	15	Mallinckrodt, correct? 13:40:52
16	questions about that. We've talked about 13:38:49	16	A. Correct. 13:40:53
17	that. 13:38:50	17	Q. Pursuant to the terms of the 13:40:53
18	But you also discuss in this 13:38:50	18	agreement between the distributor and 13:40:56
19	e-mail how, quote, "How review of 13:38:53	19	Mallinckrodt, correct? 13:40:58
20	Mallinckrodt chargebacks could be used to 13:38:55	20	A. That's correct. 13:40:58
21	help our customers monitor their customers," 13:38:57	21	Q. Okay. And separate and apart 13:40:59
22	end quote. 13:39:01	22	from whether or not all information, as you 13:41:01
23	Did I read that correctly? 13:39:01	23	describe, is contained in the chargeback 13:41:05
24	A. Yes. 13:39:02	24	information -- or chargeback data, for lack 13:41:07
25	Q. So fair -- well, as of the date 13:39:02	25	of a better term, was there also a certain 13:41:09
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1	of this e-mail, is it fair to say that you 13:39:06	1	point in time where you expanded the 13:41:12
2	were considering how to utilize chargeback 13:39:10	2	examination of, quote/unquote, downstream 13:41:17
3	information to understand how to help 13:39:12	3	data? 13:41:22
4	customers monitor their customers? 13:39:16	4	MR. O'CONNOR: Object to form. 13:41:22
5	A. Yes, that's correct. 13:39:18	5	QUESTIONS BY MR. KO: 13:41:23
6	Q. Okay. You can set that aside. 13:39:19	6	Q. Let me strike that. 13:41:24
7	And was one reason to utilize 13:39:22	7	In addition to chargeback data 13:41:24
8	chargeback information -- or strike that. 13:39:39	8	as you described, were there any other 13:41:26
9	What is your understanding of 13:39:41	9	sources of information that you asked to be 13:41:28
10	chargeback -- chargeback data, separate and 13:39:43	10	pulled for purposes of understanding the 13:41:32
11	apart from what's included in that? 13:39:47	11	obligation to monitor customers' customers? 13:41:36
12	A. Like currently my -- 13:39:48	12	A. I -- not as you state the 13:41:38
13	Q. Yeah. What's your 13:39:50	13	question, I'm not aware. 13:41:41
14	understanding of what chargeback data 13:39:51	14	(Mallinckrodt-Harper Exhibit 9 13:41:44
15	consists of. 13:39:54	15	marked for identification.) 13:41:44
16	A. Certainly. 13:39:54	16	QUESTIONS BY MR. KO: 13:41:44
17	We sell to wholesalers and 13:39:55	17	Q. Okay. I'm going to hand you a 13:41:44
18	distributors at a certain price, and there 13:39:56	18	copy -- going back to your description of 13:41:46
19	are wholesaler/distributor customers, their 13:40:01	19	chargebacks, I'm going to hand you a copy of 13:41:48
20	customers, who have negotiated discounts 13:40:04	20	what will be marked as -- I hate to go out of 13:41:50
21	through purchasing co-ops, et cetera. 13:40:07	21	order because I already premarked something, 13:41:52
22	And so they then purchase from 13:40:10	22	but this is going to be Harper Exhibit 9. 13:41:54
23	our distributors. The downstream registrants 13:40:12	23	And for the record, this is a 13:41:57
24	purchase from our distributor at a lesser 13:40:14	24	copy of your deposition transcript that you 13:41:59
25	price than the distributor has paid 13:40:19	25	sat for in connection with the Island Drug 13:42:04

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1 matter that we were discussing earlier today. 13:42:09
2 Do you recall sitting for that 13:42:12
3 deposition? 13:42:12
4 A. Yes. 13:42:13
5 Q. And Island Drug was a pharmacy 13:42:13
6 that actually one of your distributors 13:42:15
7 shipped to, correct? 13:42:17
8 A. May I have a minute to 13:42:18
9 refamiliarize myself with the document? Is 13:42:27
10 that all right? 13:42:30
11 Q. Actually, I just want to -- is 13:42:31
12 it for purposes of answering my question? 13:42:31
13 A. Yes, sir. 13:42:32
14 Q. You don't need to answer that. 13:42:33
15 I just actually want to turn your attention 13:42:34
16 to page 12. I'm sorry, page 11. 13:42:36
17 And so in connection with this 13:42:54
18 deposition testimony, do you see the question 13:43:05
19 that's asked: "And what is a chargeback 13:43:08
20 system, if you'll define that, please?" 13:43:12
21 Do you mind reading your 13:43:14
22 response to that question in the record? 13:43:15
23 A. I don't mind. 13:43:17
24 Q. Okay. Thank you. 13:43:19
25 A. "Mallinckrodt sells controlled 13:43:20

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1 substances to wholesalers at a standard 13:43:22
2 price. Some pharmacies negotiate a 13:43:24
3 discounted price. When the wholesaler honors 13:43:27
4 the discounted price to the pharmacy, they 13:43:30
5 then submit a chargeback request 13:43:32
6 retroactively to Mallinckrodt so that they 13:43:35
7 can be made financially whole for the 13:43:39
8 difference in price." 13:43:41
9 Is that enough or shall I go 13:43:44
10 on? 13:43:46
11 Q. Can you please continue? 13:43:46
12 A. Certainly. 13:43:47
13 "In doing so, the wholesaler 13:43:48
14 tells Mallinckrodt exactly which pharmacy to 13:43:51
15 which the drugs were sold, what the DEA 13:43:53
16 registration number is, the pharmacy address, 13:43:55
17 the quantity, and which drugs they have sold 13:43:58
18 to that pharmacy." 13:44:01
19 Q. Okay. And as you sit here 13:44:04
20 today, is that still an accurate description 13:44:06
21 of how you understand the chargeback system? 13:44:11
22 A. The only thing I would amend, 13:44:13
23 if possible, is to qualify that and say -- so 13:44:16
24 provided there was a chargeback transaction, 13:44:22
25 this is still the case, yes. 13:44:24

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1 Q. Okay. So for purposes of this 13:44:25
2 deposition, is it true that provided there 13:44:29
3 was a chargeback request, Mallinckrodt would 13:44:31
4 know exactly which pharmacy the drugs were 13:44:35
5 sold to? 13:44:37
6 A. Yes. 13:44:38
7 Q. And provided that there was a 13:44:39
8 chargeback request, Mallinckrodt would know 13:44:41
9 what the DEA registration number of the 13:44:43
10 downstream entity is, correct? 13:44:46
11 A. Yes. 13:44:47
12 Q. And Mallinckrodt would also 13:44:48
13 know exactly which pharmacy address its pills 13:44:50
14 were being shipped to, correct? 13:44:54
15 A. Correct. 13:44:55
16 Q. And Mallinckrodt would also 13:44:56
17 understand the quantity of pills being 13:44:58
18 shipped to that particular -- particular 13:44:59
19 pharmacy or clinic, correct? 13:45:02
20 MR. O'CONNOR: Objection to 13:45:03
21 form. 13:45:04
22 THE WITNESS: That's correct. 13:45:04
23 QUESTIONS BY MR. KO: 13:45:04
24 Q. And Mallinckrodt would know 13:45:05
25 exactly which drugs they have sold to that 13:45:06

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1 particular pharmacy, correct? 13:45:08
2 A. Correct. 13:45:09
3 Q. And I want to focus on your 13:45:11
4 qualification when you say you -- this would 13:45:15
5 only be the case if Mallinckrodt obtained a 13:45:19
6 chargeback request. 13:45:22
7 First of all, wasn't it the 13:45:22
8 case that a chargeback request -- it was 13:45:25
9 certainly uncommon if a chargeback request 13:45:28
10 did not occur, correct? 13:45:30
11 MR. O'CONNOR: Objection to 13:45:32
12 form. 13:45:33
13 THE WITNESS: Yes. 13:45:33
14 QUESTIONS BY MR. KO: 13:45:36
15 Q. In most instances, Mallinckrodt 13:45:37
16 and you expected a chargeback request to be 13:45:40
17 made by a distributor, correct? 13:45:43
18 A. Yes. 13:45:45
19 Q. And move -- and putting aside 13:45:46
20 whether or not a chargeback was paid, does 13:45:52
21 the chargeback data track all downstream 13:45:56
22 customer sales? 13:45:58
23 MR. O'CONNOR: Objection to 13:46:00
24 form. 13:46:01
25 THE WITNESS: "Downstream 13:46:01

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1 customers" meaning the pharmacy? 13:46:04

2 QUESTIONS BY MR. KO: 13:46:05

3 Q. Yes. 13:46:06

4 A. Their sales? 13:46:06

5 Q. The sales made to the 13:46:07

6 pharmacies by the distributors. 13:46:10

7 A. For Mallinckrodt product, yes. 13:46:12

8 Q. Okay. So just so the record is 13:46:15

9 clear, the chargeback data would include all 13:46:17

10 downstream customer sales made by a 13:46:21

11 distributor to a pharmacy or clinic, correct? 13:46:24

12 A. Correct. 13:46:27

13 Q. Okay. And so you can set this 13:46:28

14 one aside. 13:46:37

15 (Mallinckrodt-Harper Exhibit 8 13:46:53

16 marked for identification.) 13:46:53

17 QUESTIONS BY MR. KO: 13:46:53

18 Q. I'm now going to go back in 13:46:46

19 time -- or back in order and hand you a copy 13:46:47

20 of what's going to be marked -- or what has 13:46:49

21 been marked as Harper Exhibit 4 -- or 8, 13:46:50

22 excuse me. 13:46:52

23 And this is a -- for the 13:46:56

24 record, this document ends in Bates 419810, 13:47:00

25 and this is a December 14, 2007, e-mail from 13:47:06

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1 you to Ms. Levy. 13:47:10

2 Is that correct? 13:47:12

3 A. Yes. 13:47:12

4 Q. And going down to the bottom of 13:47:15

5 this page, you indicate that you are 13:47:23

6 receiving -- you have received the attached 13:47:29

7 memo as part of a training at a recent 13:47:33

8 seminar. 13:47:35

9 Do you see that? 13:47:35

10 A. Yes. 13:47:36

11 Q. And the memo is what's 13:47:36

12 contained in this attachment, and it's one of 13:47:38

13 the DEA guidance letters that we referred to 13:47:40

14 earlier today; is that correct? 13:47:42

15 A. Yes. 13:47:43

16 Q. And would it also be fair to 13:47:44

17 say that this is one of the Rannazzisi 13:47:46

18 letters that we referred to? Correct? 13:47:48

19 A. Yes. 13:47:50

20 Q. So as of December 5, 2007, or 13:47:53

21 no later than December 5, 2007, you were in 13:47:58

22 possession of one of the Rannazzisi letters 13:48:01

23 dated December -- September 27, 2006, 13:48:04

24 correct? 13:48:08

25 A. Yes. 13:48:08

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1 Q. Okay. And you indicate that it 13:48:10

2 gives specific guidance on suspicious order 13:48:16

3 monitoring. 13:48:20

4 Do you see that? 13:48:20

5 A. Yes, I do see it. 13:48:21

6 Q. And so is it fair to say that 13:48:23

7 you in fact believe it to be the case that 13:48:26

8 this letter was instructive on your 13:48:27

9 obligations to design and implement a 13:48:31

10 suspicious order monitoring system? 13:48:34

11 A. It was instructive in terms of 13:48:35

12 guidance. 13:48:38

13 Q. Okay. 13:48:39

14 A. Yes. 13:48:39

15 Q. And you also ask -- or you 13:48:40

16 don't -- you don't ask anything, but Jim 13:48:45

17 Rausch responds to your e-mail. 13:48:47

18 Do you see that? 13:48:48

19 A. Yes, I do. 13:48:49

20 Q. And he indicates that "We," 13:48:51

21 being Mallinckrodt, "send a suspicious order 13:48:55

22 report to the DEA monthly." 13:48:57

23 Correct? 13:48:59

24 A. Correct. 13:48:59

25 Q. Did you ever review any of 13:49:00

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1 those reports prior to the time of this 13:49:02

2 e-mail? 13:49:07

3 A. I'm not certain. 13:49:07

4 Q. Okay. Generally speaking, was 13:49:12

5 it Mr. Rausch's responsibility to send these 13:49:13

6 reports to the DEA monthly? 13:49:14

7 A. Yes. 13:49:15

8 Q. Okay. And do you have an 13:49:16

9 understanding of -- well, earlier we were 13:49:19

10 talking about the distinction between 13:49:22

11 peculiar and suspicious orders. 13:49:24

12 Do you recall that? 13:49:25

13 A. Yes. 13:49:25

14 Q. Is it your understanding that 13:49:26

15 these monthly reports being sent by 13:49:27

16 Mr. Rausch were a compilation of the peculiar 13:49:31

17 orders that Mallinckrodt had identified? 13:49:34

18 A. Yes. 13:49:36

19 Q. Okay. So in other words, it 13:49:38

20 wasn't necessarily the case that they were -- 13:49:40

21 that Mallinckrodt was sending any 13:49:42

22 notification of suspicious orders to DEA, 13:49:44

23 correct? 13:49:46

24 A. Correct. 13:49:46

25 Q. It was just simply a monthly 13:49:47

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1 report that contained all the peculiar orders 13:49:49
2 that Mallinckrodt had identified, right? 13:49:51
3 A. Correct. 13:49:53
4 Q. Okay. And do you recall -- I 13:49:54
5 know I've asked this question in another form 13:50:08
6 or in a different way, but do you recall 13:50:11
7 prior to December 5, 2007, whether or not 13:50:13
8 Mallinckrodt had ever identified a suspicious 13:50:16
9 order to the DEA? 13:50:18
10 A. Yes, I do recall. 13:50:20
11 Q. You do recall instances in 13:50:22
12 which Mallinckrodt identified a suspicious 13:50:24
13 order to the DEA? 13:50:26
14 A. Yes. 13:50:26
15 Q. Okay. And when did that occur? 13:50:27
16 A. So there was the case we talked 13:50:28
17 about with the compounding pharmacy. 13:50:31
18 Q. Okay. 13:50:34
19 A. And there were several others, 13:50:35
20 but I don't recall the particulars of those 13:50:38
21 reports. 13:50:40
22 Q. Fair enough. 13:50:41
23 So you do recall some instances 13:50:41
24 in which suspicious orders were reported to 13:50:45
25 Mallinckrodt prior to December 14, 2007? 13:50:48

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1 A. Reported to the DEA? 13:50:52
2 Q. Yes. 13:50:53
3 A. Yes, sir. 13:50:54
4 Q. Okay. And approximately -- I 13:50:54
5 know you've -- you don't know the exact 13:50:58
6 amount, but you've given some examples. 13:51:00
7 Do you know whether or not it 13:51:02
8 was -- there were 10 instances or 50 13:51:04
9 instances? 13:51:06
10 Do you know approximately how 13:51:07
11 many suspicious orders Mallinckrodt reported 13:51:08
12 to the DEA? 13:51:09
13 A. I will approximate it to be ten 13:51:10
14 or less. 13:51:15
15 Q. Okay. So in the entire time 13:51:16
16 that you were a part of the DEA compliance 13:51:17
17 team, you recall ten orders being 13:51:21
18 identified -- approximately ten orders being 13:51:24
19 identified as suspicious to the DEA? 13:51:25
20 MR. O'CONNOR: Objection to 13:51:27
21 form. 13:51:27
22 THE WITNESS: Prior to this? 13:51:27
23 QUESTIONS BY MR. KO: 13:51:36
24 Q. Right. 13:51:36
25 A. Yes. Re -- but -- Rausch was 13:51:37

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1 sending reports as well, but the confirmed 13:51:41
2 suspicious orders to DEA were ten or less. 13:51:45
3 Q. Right. 13:51:46
4 And as we discussed, the 13:51:47
5 report -- the monthly reports were just the 13:51:49
6 peculiar orders that Mallinckrodt had 13:51:50
7 identified, correct? 13:51:52
8 A. Correct. 13:51:52
9 Q. And not necessarily any -- or 13:51:53
10 not any suspicious orders, correct? 13:51:55
11 A. Correct. 13:51:57
12 Q. Okay. By the way, there's 13:51:58
13 reference made to someone by the name of Sean 13:52:07
14 Welch. 13:52:10
15 Do you see that? 13:52:10
16 A. Yes. 13:52:11
17 Q. Who is he? 13:52:12
18 A. He was a co-manager of customer 13:52:13
19 service at that time. I believe Jim Rausch 13:52:19
20 may have reported to him. 13:52:22
21 Q. Okay. Was he involved on the 13:52:25
22 SOM team as well? 13:52:27
23 A. Only in terms of being kept 13:52:28
24 informed of our activity. 13:52:36
25 Q. So he didn't have any 13:52:37

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1 day-to-day responsibility with respect to the 13:52:44
2 SOM program? 13:52:48
3 A. He did not. 13:52:49
4 Q. Okay. And you also indicate, 13:52:49
5 going back to the bottom e-mail from you to 13:52:51
6 Jim and Sean, you say that you received the 13:52:53
7 attached memo as part of a training at a 13:52:56
8 recent seminar. 13:52:58
9 Do you recall which seminar 13:52:59
10 this was? 13:53:00
11 A. Yes, it was the Buzzeo. 13:53:00
12 Q. Okay. So the 2007 Buzzeo 13:53:02
13 conference, correct? 13:53:05
14 We'll just -- assuming -- I 13:53:08
15 mean, the e-mail is dated -- 13:53:10
16 A. Yes, yes, yes. 13:53:11
17 Q. -- December 5th. 13:53:11
18 A. Because it says "recent," yes. 13:53:12
19 Q. Right. 13:53:15
20 A. Yes, sir. 13:53:15
21 Q. And the Buzzeo conference was 13:53:15
22 an annual occurrence, generally speaking, in 13:53:16
23 the fall of each year, correct? 13:53:19
24 A. Yes. 13:53:20
25 Q. Okay. So was it the case 13:53:21

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1 that -- well, did you ever receive this 13:53:24
2 correspondence from Mr. Rannazzisi prior to 13:53:27
3 the 2007 Buzzeeo conference? 13:53:31
4 A. No. 13:53:34
5 Q. Okay. In going back to the ten 13:53:35
6 instances in which you recall in which a 13:53:46
7 suspicious order was identified, certainly 13:53:50
8 it's more than one, but I just want to make 13:53:52
9 sure I understand. 13:53:56
10 Did you say approximately ten, 13:53:56
11 or do you think it was ten or less? 13:53:58
12 A. Ten or less. 13:53:59
13 Q. Ten or less. 13:54:00
14 And do you recall if it was 13:54:01
15 five, or where in the spectrum between one 13:54:03
16 and ten? 13:54:06
17 A. I'm sorry, I can't recall. I 13:54:07
18 really can't recall. 13:54:09
19 Q. Would it be fair to say, 13:54:09
20 relative to all the peculiar orders that you 13:54:11
21 had reported to you on a monthly basis to the 13:54:13
22 DEA, that the identification of a suspicious 13:54:16
23 order was extremely rare given that number? 13:54:19
24 MR. O'CONNOR: Objection to 13:54:22
25 form. 13:54:22

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1 THE WITNESS: If we can say 13:54:22
2 extremely rare was a low percentage, 13:54:24
3 if you don't mind that term, yes. 13:54:26
4 Yes. 13:54:28
5 QUESTIONS BY MR. KO: 13:54:29
6 Q. Well, in these peculiar -- 13:54:29
7 these monthly peculiar order reports that Jim 13:54:30
8 Rausch was sending to the DEA, did you have 13:54:33
9 any understanding of how many orders were 13:54:35
10 included in that report? 13:54:36
11 A. I did not. 13:54:38
12 Q. Okay. There were quite a few, 13:54:40
13 weren't there? 13:54:42
14 MR. O'CONNOR: Objection to 13:54:43
15 form. 13:54:44
16 THE WITNESS: I don't know if 13:54:44
17 this was the report that included the 13:54:47
18 dosage form orders out of Hobart or if 13:54:51
19 this was a separate report that Jim 13:54:54
20 Rausch was sending for the bulk API 13:54:55
21 orders. 13:55:00
22 QUESTIONS BY MR. KO: 13:55:00
23 Q. Fair enough. 13:55:00
24 Well, regardless of whether or 13:55:01
25 not we can clarify that distinction, you do 13:55:05

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1 agree with me that the actual amount of 13:55:07
2 suspicious orders that were reported to the 13:55:09
3 DEA prior to 2007 was a very low percentage 13:55:10
4 relative to all peculiar orders reported to 13:55:16
5 the DEA, correct? 13:55:18
6 MR. O'CONNOR: Objection to 13:55:19
7 form. 13:55:19
8 THE WITNESS: Yes, correct. 13:55:19
9 QUESTIONS BY MR. KO: 13:55:20
10 Q. Okay. We can set this one 13:55:21
11 aside. 13:55:29
12 (Mallinckrodt-Harper Exhibit 10 13:55:29
13 marked for identification.) 13:55:30
14 QUESTIONS BY MR. KO: 13:55:30
15 Q. Want to now turn your attention 13:55:30
16 to what's going to be marked as exhibit -- 13:55:31
17 Harper Exhibit 10. 13:55:33
18 And for the record, this 13:55:39
19 document ends in Bates 7146630. 13:55:40
20 And this appears to be -- if 13:55:56
21 you look at the bottom e-mail on the first 13:55:57
22 page, there's a reference made to an e-mail 13:56:00
23 you send to several people on January 4, 13:56:04
24 2008? 13:56:09
25 Do you see that? 13:56:09

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1 A. Yes. 13:56:10
2 Q. Any reason to dispute -- or any 13:56:11
3 reason to dispute whether or not you sent 13:56:14
4 this letter -- or e-mail? 13:56:16
5 A. No. 13:56:18
6 Q. Okay. And on this particular 13:56:19
7 e-mail, you are attaching another memo/DEA 13:56:24
8 guidance letter; is that correct? 13:56:31
9 A. Yes. 13:56:33
10 Q. And this is separate and apart 13:56:34
11 from the prior Rannazzisi letter that we 13:56:39
12 discussed. This appears to be another one, 13:56:41
13 dated December 27, 2007, correct? 13:56:43
14 A. Correct. 13:56:46
15 Q. And you received this -- you 13:56:46
16 actually received this correspondence, 13:56:49
17 correct? 13:56:51
18 A. Correct. 13:56:51
19 Q. Directly from Mr. Rannazzisi? 13:56:51
20 A. Yes. 13:56:54
21 Q. Okay. And turning back to 13:56:55
22 the -- to your e-mail, you indicate that the 13:57:00
23 guidance letter or the memo as referred to in 13:57:08
24 this e-mail that you received on January 4, 13:57:12
25 2000-A -- 2008 targets manufacturers as well 13:57:15

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1 as distributors in terms of suspicious order 13:57:20
2 monitoring obligations. 13:57:23
3 Did I read that correctly? 13:57:23
4 A. Yes. 13:57:24
5 Q. So is it fair to say that as of 13:57:24
6 January 4, 2008, you understand that the DEA 13:57:28
7 expected compliance with the standards set 13:57:31
8 forth in this letter? Correct? 13:57:35
9 MR. O'CONNOR: Objection to 13:57:36
10 form. 13:57:36
11 THE WITNESS: So these aren't 13:57:36
12 regulations. It's a guidance. 13:57:39
13 QUESTIONS BY MR. KO: 13:57:40
14 Q. Sure. 13:57:41
15 A. So, yes, we understood that 13:57:41
16 this was additional guidance on SOM. 13:57:43
17 Q. And my question was whether or 13:57:46
18 not you understood that as of January 4, 13:57:49
19 2008, you understood that the DEA expected 13:57:52
20 compliance with the standards set forth in 13:57:56
21 that letter. 13:57:58
22 MR. O'CONNOR: Objection to 13:57:59
23 form. 13:57:59
24 THE WITNESS: No. 13:57:59
25

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1 QUESTIONS BY MR. KO: 13:58:00
2 Q. So you believed that the things 13:58:00
3 set forth in this letter you did not 13:58:02
4 necessarily have to comply with? 13:58:04
5 A. No. 13:58:06
6 Q. Okay. You believe you did not 13:58:06
7 have to comply with -- with the instructions 13:58:09
8 as sent out by Mr. Rannazzisi on... 13:58:14
9 A. So this is another guidance 13:58:18
10 meant for industry which we attempted to 13:58:20
11 incorporate into our program. But this was 13:58:23
12 not -- it quotes the regulations, but this 13:58:27
13 was not promulgated in CFR 21. 13:58:30
14 Q. I understand that and I -- I 13:58:34
15 very clearly under the distinction that 13:58:35
16 you're trying to make, and my question simply 13:58:37
17 was whether or not you believed you were 13:58:39
18 expected to comply with the instructions set 13:58:42
19 forth in that letter. 13:58:45
20 MR. O'CONNOR: Same objection. 13:58:45
21 THE WITNESS: Yes. 13:58:46
22 QUESTIONS BY MR. KO: 13:58:51
23 Q. All right. You certainly did 13:58:51
24 not want to follow -- or you certainly 13:58:52
25 believed that Mallinckrodt could not follow 13:58:54

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1 the instructions set forth in that letter, 13:58:56
2 correct? 13:58:58
3 MR. O'CONNOR: Objection to 13:58:58
4 form. 13:58:59
5 THE WITNESS: Could you please 13:58:59
6 repeat that question? I'm sorry. 13:59:01
7 QUESTIONS BY MR. KO: 13:59:02
8 Q. Sure. 13:59:03
9 You certainly believed that 13:59:03
10 Mallinckrodt could not follow the 13:59:07
11 instructions set forth in that letter, 13:59:10
12 correct? 13:59:12
13 MR. O'CONNOR: Objection to 13:59:13
14 form. 13:59:13
15 THE WITNESS: I did not believe 13:59:13
16 that. 13:59:14
17 QUESTIONS BY MR. KO: 13:59:14
18 Q. Right. 13:59:15
19 You believed that Mallinckrodt 13:59:15
20 should follow the instructions set forth in 13:59:17
21 that letter, correct? 13:59:19
22 A. Correct. 13:59:20
23 Q. Thank you. 13:59:21
24 A. Yes. 13:59:22
25 Q. That was an inartful question 13:59:22

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1 by me. I apologize. 13:59:24
2 Now, going back to the bottom 13:59:26
3 of that first page, you also reference 13:59:37
4 another -- well, you reference a Federal 13:59:41
5 Register Notice. 13:59:41
6 Do you see that? 13:59:44
7 A. Yes. 13:59:44
8 Q. 72 FR 36487. 13:59:44
9 And I believe that's a 13:59:51
10 reference to the Southwood Federal Register 13:59:51
11 Notice that we discussed earlier today, 13:59:53
12 correct? 13:59:55
13 A. Yes, it is. 13:59:55
14 Q. Okay. So again, as of January 13:59:57
15 4, 2008, you understood that the DEA was 13:59:59
16 instructing you to read, review and follow 14:00:05
17 the guidelines set forth in that Federal 14:00:11
18 Register Notice, correct? 14:00:13
19 MR. O'CONNOR: Objection to 14:00:14
20 form. 14:00:14
21 THE WITNESS: So this is a 14:00:14
22 guidance, and it referenced 14:00:16
23 Southwood's, and Southwood's was the 14:00:18
24 relationship from a distributor to the 14:00:22
25 pharmacy. And we sell to 14:00:23

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1 distributors, not directly to 14:00:24

2 pharmacies. 14:00:26

3 QUESTIONS BY MR. KO: 14:00:26

4 Q. And I understand the 14:00:26

5 distinction being made, but there were 14:00:28

6 certain statements made in Southwood, 14:00:30

7 correct, as we discussed earlier? 14:00:32

8 A. Yes. 14:00:33

9 Q. And it was your understanding 14:00:33

10 that there were certain principles to follow 14:00:36

11 as a result of the statements set forth in 14:00:42

12 Southwood, or did you believe that you did 14:00:43

13 not have to follow those? 14:00:45

14 MR. O'CONNOR: Objection to 14:00:46

15 form. 14:00:47

16 THE WITNESS: Certain 14:00:47

17 principles, yes. 14:00:48

18 QUESTIONS BY MR. KO: 14:00:49

19 Q. So in other words, there were 14:00:49

20 certain principles that you believe you had 14:00:50

21 to follow as a result of the Southwood 14:00:52

22 Federal Register Notice, correct? 14:00:54

23 MR. O'CONNOR: Objection. 14:00:55

24 Form. 14:00:55

25 THE WITNESS: Yes. Correct. 14:00:55

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1 QUESTIONS BY MR. KO: 14:00:57

2 Q. So the letters that you had 14:01:06

3 received from Mr. Rannazzisi, as we described 14:01:07

4 were the Rannazzisi letters, just so the 14:01:09

5 record is clear, those are two letters that 14:01:13

6 you became aware of sometime in the 2007, 14:01:16

7 2008 time period? 14:01:19

8 A. Yes. 14:01:20

9 MR. O'CONNOR: Objection to 14:01:21

10 form. 14:01:22

11 QUESTIONS BY MR. KO: 14:01:22

12 Q. And it's your testimony that 14:01:22

13 you only received directly the e-mail -- or 14:01:23

14 the letter reflected in Exhibit 10 directly, 14:01:27

15 correct? 14:01:30

16 A. Correct. 14:01:31

17 Q. Okay. And in connection with 14:01:33

18 revising and improving Mallinckrodt's SOM 14:01:37

19 program, is one of the reasons for improving 14:01:40

20 the SOM program a result of reading these 14:01:44

21 letters? 14:01:49

22 MR. O'CONNOR: Objection. 14:01:49

23 THE WITNESS: Yes. 14:01:50

24 QUESTIONS BY MR. KO: 14:01:53

25 Q. Okay. Thank you. You can set 14:01:54

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1 that aside. 14:01:56

2 Actually, sorry, there was one 14:01:57

3 more question, but maybe you don't need to 14:02:09

4 consult with that actual exhibit. 14:02:12

5 Do you know who Kyle Wright is? 14:02:13

6 A. Yes. 14:02:15

7 Q. He was at DEA, correct? 14:02:17

8 A. Yes. 14:02:19

9 Q. And do you recall meeting with 14:02:20

10 him at various DEA meetings or conferences? 14:02:25

11 A. Yes. 14:02:28

12 Q. And did you meet with him prior 14:02:29

13 to or after the receipt of that e-mail, or do 14:02:33

14 you not recall? 14:02:36

15 A. I do not recall. 14:02:37

16 Q. Do you recall meeting with him 14:02:38

17 in the 2011 time period? 14:02:39

18 A. I'm sorry, I remember meeting 14:02:40

19 with him at a conference, but not the date. 14:02:42

20 Q. Sure. 14:02:44

21 And do you recall the substance 14:02:47

22 of the conversation you had with Mr. Wright? 14:02:51

23 A. Yes. 14:02:53

24 Q. And what was the substance of 14:02:55

25 the conversation you had with him? 14:02:57

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1 A. He had been speaking from the 14:02:58

2 podium about suspicious order monitoring, and 14:03:01

3 I asked to speak to him during a breakout 14:03:06

4 session to talk about the attributes of our 14:03:09

5 program. 14:03:11

6 Q. Okay. And I believe we have 14:03:12

7 some documentation about that, so we'll cover 14:03:15

8 that later. 14:03:17

9 But other than that particular 14:03:18

10 conversation you had with him, do you recall 14:03:21

11 any other meetings or conversations you had 14:03:23

12 with Mr. Wright? 14:03:24

13 A. I'm not certain if he was at a 14:03:26

14 subsequent meeting at DEA in 2011. I can't 14:03:31

15 recall if he was in attendance. 14:03:35

16 Q. Okay. Fair enough. 14:03:36

17 (Mallinckrodt-Harper Exhibit 11 14:03:42

18 marked for identification.) 14:04:00

19 QUESTIONS BY MR. KO: 14:04:00

20 Q. I'm going to hand you a copy of 14:03:38

21 what has been marked as Harper Exhibit 11. 14:03:40

22 A. Uh-huh. 14:03:40

23 Q. And for the record, this 14:04:00

24 exhibit ends in Bates 301994, and it appears 14:04:04

25 to be an e-mail chain between you and Jim 14:04:12

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1 Rausch from April 21, 2008. 14:04:14

2 Do you see that? 14:04:19

3 A. Yes. 14:04:19

4 Q. And in this e-mail chain, I 14:04:20

5 believe you're asking what the algorithm -- 14:04:24

6 you're asking Mr. Rausch what the algorithm 14:04:29

7 is to determine orders of excessive quantity, 14:04:31

8 frequency or outside of the normal pattern; 14:04:36

9 is that correct? 14:04:38

10 A. Yes. 14:04:38

11 Q. And in particular -- I said 14:04:39

12 "algorithm," but you specifically asked what 14:04:43

13 the current equation is, correct? 14:04:45

14 A. Yes. 14:04:47

15 Q. And he responds that "the 14:04:48

16 metric is 2X the previous fiscal year and 14:04:52

17 year-to-date average for a SKU and customer." 14:04:56

18 MR. O'CONNOR: Objection to 14:05:00

19 form. 14:05:04

20 QUESTIONS BY MR. KO: 14:05:04

21 Q. Well, let me just make sure the 14:05:05

22 record is clear. 14:05:06

23 His response to your question 14:05:06

24 is, quote, "Any order quantity that is double 14:05:08

25 the previous fiscal year and YTD" -- in other 14:05:09

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1 words, year-to-date -- "average for a SKU and 14:05:13

2 customer." 14:05:15

3 Did I read that correctly? 14:05:16

4 A. Yes. 14:05:16

5 Q. Okay. And so does this refresh 14:05:17

6 your recollection that in the April 2008 time 14:05:21

7 period, the algorithm that you were using for 14:05:23

8 the peculiar order threshold was 2X the 14:05:24

9 previous fiscal year? 14:05:26

10 A. Yes. 14:05:27

11 Q. Okay. And at that time, it's 14:05:28

12 also fair to say based on this e-mail that 14:05:30

13 you didn't actually know until Jim responded 14:05:32

14 what the formula actually was? 14:05:35

15 MR. O'CONNOR: Objection to 14:05:36

16 form. 14:05:38

17 THE WITNESS: That's not 14:05:38

18 correct. 14:05:39

19 QUESTIONS BY MR. KO: 14:05:39

20 Q. Well, why did you ask him then? 14:05:40

21 A. Because I asked the current 14:05:42

22 equation. It had moved from 1.5 to 3 to 2. 14:05:44

23 It moved around. 14:05:47

24 Q. Right. 14:05:48

25 A. The multiplier. So I asked him 14:05:48

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1 what the current one is -- 14:05:50

2 Q. Sure. 14:05:52

3 A. -- at that time. 14:05:52

4 Q. I see what you're saying. 14:05:52

5 A. Okay. 14:05:54

6 Q. And so my question was simply: 14:05:54

7 At the time of this e-mail, you did not know 14:05:56

8 the then current equation to determine a 14:05:59

9 peculiar order, correct? 14:06:02

10 A. That's correct. 14:06:03

11 Q. And based on your e-mail, you 14:06:04

12 had thought that perhaps it was just a 1.2 14:06:07

13 metric? 14:06:09

14 MR. O'CONNOR: Objection to 14:06:11

15 form. 14:06:12

16 THE WITNESS: Yes. 14:06:12

17 QUESTIONS BY MR. KO: 14:06:13

18 Q. All right. Okay. 14:06:14

19 And just, again, to be clear, 14:06:17

20 this -- this e-mail talks about an excessive 14:06:19

21 quantity calculation. That's the title of 14:06:22

22 the e-mail, right? 14:06:25

23 A. Yes. 14:06:26

24 Q. And Mallinckrodt's then system 14:06:27

25 to determine whether or not an order was of 14:06:36

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1 an excessive quantity, frequency or outside 14:06:39

2 of normal pattern was to use the 2X metric 14:06:42

3 that we've been describing today; is that 14:06:45

4 correct? 14:06:47

5 A. Yes. 14:06:47

6 Q. Okay. You can set that aside. 14:06:49

7 Now, the date of this e-mail is 14:07:02

8 April 21, 2008, correct? 14:07:03

9 A. Yes, correct. 14:07:05

10 Q. And that's approximately three 14:07:07

11 and a half months after you received 14:07:08

12 notification from the DEA, and in particular 14:07:10

13 the second Rannazzisi letter, correct? 14:07:14

14 A. Yes. 14:07:17

15 Q. So is it fair to say that it 14:07:17

16 took you three and a half months to ask 14:07:18

17 Mr. Rausch what your then existing peculiar 14:07:21

18 order algorithm metric was? 14:07:24

19 MR. O'CONNOR: Objection to 14:07:26

20 form. 14:07:27

21 THE WITNESS: We were rewriting 14:07:27

22 the policies in the systems and 14:07:29

23 procedures, and, yes, I did not know 14:07:31

24 it by heart. So there was a reference 14:07:32

25 made, and I wanted to detail it in the 14:07:34

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1 procedure. 14:07:36
2 QUESTIONS BY MR. KO: 14:07:36
3 Q. Okay. Thank you for that. 14:07:36
4 And I was just asking whether 14:07:37
5 or not you agree with the fact that it took 14:07:41
6 you three and a half months after receiving 14:07:43
7 the second Rannazzisi letter directed at 14:07:45
8 manufacturers to ask Mr. Rausch what the then 14:07:50
9 existing peculiar order algorithm was. 14:07:59
10 MR. O'CONNOR: Objection. 14:08:01
11 Form. 14:08:03
12 THE WITNESS: Yes. 14:08:03
13 QUESTIONS BY MR. KO: 14:08:03
14 Q. Okay. Thank you. You can set 14:08:03
15 that one aside. 14:08:16
16 And I think -- or excuse me, I 14:08:18
17 will hand you a copy of what's previously 14:08:19
18 been marked as Exhibit 1 to the Stewart 14:08:21
19 deposition. 14:08:24
20 MR. KO: And for the record, 14:08:26
21 this document ends in Bates 299558. 14:08:27
22 QUESTIONS BY MR. KO: 14:08:27
23 Q. Sorry to jump around, but going 14:08:42
24 back to the previous line of questioning, do 14:08:43
25 you recall why it took you three and a half 14:08:48

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1 months to ask for the existing algorithm? 14:08:50
2 MR. O'CONNOR: Objection to 14:08:52
3 form. 14:08:54
4 THE WITNESS: I was writing the 14:08:54
5 procedure, and I wanted to document. 14:08:56
6 I knew the algorithm existed; I just 14:08:57
7 did not know the multiplier. 14:08:59
8 QUESTIONS BY MR. KO: 14:09:00
9 Q. Okay. And when you say you 14:09:00
10 were "writing the procedure," what are you 14:09:03
11 talking about? 14:09:05
12 A. I'm documenting the process 14:09:05
13 flow for our suspicious order monitoring 14:09:09
14 program within Mallinckrodt. 14:09:11
15 Q. Okay. And that's reflected in 14:09:12
16 a policy. I think we'll have a copy of it 14:09:13
17 that we can show you, but it's the actual 14:09:16
18 policy of identifying -- company policy of 14:09:18
19 identifying a suspicious order, correct? 14:09:23
20 A. Yes. 14:09:24
21 MR. O'CONNOR: Objection to 14:09:26
22 form. 14:09:26
23 QUESTIONS BY MR. KO: 14:09:26
24 Q. All right. Now, turning back 14:09:27
25 to this document, this appears to be an 14:09:27

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1 e-mail chain between you -- well, excuse me. 14:09:32
2 It's an e-mail chain involving 14:09:35
3 Mr. Ratliff and Mr. Rausch in which you are 14:09:40
4 also a recipient, dated April 1, 2008; is 14:09:42
5 that correct? 14:09:46
6 A. Yes. 14:09:46
7 Q. And earlier we had spoken about 14:09:48
8 Pete Kleissle of the DEA, and you recall 14:09:58
9 meeting him sometime in 2010, correct? 14:10:01
10 A. Yes. 14:10:04
11 Q. And it appears here that 14:10:05
12 Mr. Kleissle has had some interactions with 14:10:06
13 Mr. Ratliff and Mr. Rausch as well, correct? 14:10:09
14 A. I believe directly with 14:10:11
15 Mr. Ratliff, who was passing on the 14:10:15
16 information to Jim Rausch. 14:10:17
17 Q. Okay. And it was also your 14:10:18
18 understanding that Mr. Rat -- or excuse me, 14:10:20
19 Mr. Rausch was sending monthly reports to 14:10:23
20 Mr. Kleissle at DEA -- 14:10:27
21 A. Yes. 14:10:29
22 Q. -- prior to this time, correct? 14:10:30
23 A. Yes. 14:10:31
24 Q. And those were the peculiar 14:10:31
25 order reports that we were discussing 14:10:32

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1 previously, correct? 14:10:33
2 A. Yes. 14:10:34
3 Q. Now, in response to receiving 14:10:36
4 those monthly reports, Mr. Ratliff reports a 14:10:38
5 conversation that he had with Mr. Kleissle 14:10:45
6 about them; is that correct? 14:10:48
7 A. Correct. 14:10:49
8 Q. In particular, Mr. Ratliff 14:10:52
9 says, "Pete Kleissle, DEA diversion group 14:10:56
10 supervisor, St. Louis, just called regarding 14:10:58
11 several letters he has received from you 14:11:02
12 detailing suspicious orders." 14:11:04
13 Did I read that correctly? 14:11:07
14 A. Yes. 14:11:07
15 Q. He goes on to say, "He advised 14:11:09
16 that he needs more information in that if it 14:11:12
17 is suspicious, why are we filling the order. 14:11:14
18 I explained that we use a calculation based 14:11:17
19 upon an amount previously ordered. He 14:11:19
20 stated, 'If you think it is suspicious, don't 14:11:23
21 fill it.' I will go into more detail on 14:11:26
22 Friday." 14:11:30
23 Did I read that correctly? 14:11:30
24 A. Yes. 14:11:31
25 Q. Now, we had discussed earlier 14:11:32

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1 today about instances in which Mallinckrodt 14:11:38
2 was shipping a peculiar order before making 14:11:42
3 any kind of due diligence determination. 14:11:46
4 Do you recall that testimony? 14:11:49
5 A. Yes, there was a short period 14:11:50
6 of time, yes. There was a period of time. 14:11:52
7 Q. Okay. And this seems to 14:11:54
8 reflect that practice; is that fair to say? 14:11:57
9 MR. O'CONNOR: Objection to 14:12:02
10 form. 14:12:03
11 THE WITNESS: No, not -- no, it 14:12:03
12 does not. 14:12:08
13 QUESTIONS BY MR. KO: 14:12:08
14 Q. Okay. Well, Mr. Kleissle is 14:12:08
15 concerned about -- Mr. Kleissle is concerned, 14:12:10
16 is he not, about the fact that Mallinckrodt 14:12:14
17 is actually filling orders -- 14:12:17
18 MR. O'CONNOR: Objection. 14:12:19
19 QUESTIONS BY MR. KO: 14:12:19
20 Q. -- that appear on the peculiar 14:12:19
21 order report? 14:12:20
22 MR. O'CONNOR: Objection to 14:12:21
23 form. 14:12:21
24 THE WITNESS: My understanding 14:12:21
25 of this instruction is, if it's 14:12:23

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1 suspicious, do not report it and don't 14:12:25
2 ship it. But if you're going to ship 14:12:28
3 it, it's not suspicious. 14:12:30
4 QUESTIONS BY MR. KO: 14:12:32
5 Q. Okay. Well -- 14:12:33
6 A. Sorry. Sorry. 14:12:34
7 Q. No, it's okay. We'll try to 14:12:35
8 unpack that in a moment. 14:12:36
9 A. Okay. 14:12:37
10 Q. But he does say, "If you think 14:12:37
11 it is suspicious, don't fill it," correct? 14:12:40
12 A. Yes. 14:12:42
13 Q. Okay. And he also is advising 14:12:43
14 that he needs more information based on the 14:12:48
15 peculiar order reports that Mr. Rausch -- 14:12:55
16 Mr. Rausch is sending to him; is that fair to 14:12:57
17 say? 14:12:59
18 A. Yes. 14:12:59
19 Q. Okay. So as of the date of 14:13:01
20 this e-mail, is it fair to say that 14:13:03
21 Mallinckrodt knew from the DEA that they 14:13:05
22 needed more information on the monthly 14:13:09
23 reports that they were sending to DEA? 14:13:11
24 MR. O'CONNOR: Objection to 14:13:13
25 form. 14:13:14

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1 THE WITNESS: Yes. 14:13:14
2 QUESTIONS BY MR. KO: 14:13:14
3 Q. Okay. And in response to 14:13:15
4 Mr. Ratliff's e-mail, Mr. Rausch says, "Bill, 14:13:22
5 okay. I think we just sent the monthly one 14:13:28
6 out yesterday, so maybe that's the one he 14:13:30
7 just got. We won't send out any more." 14:13:32
8 Did I read that correctly? 14:13:35
9 A. Yes. 14:13:35
10 Q. So as of the date of this 14:13:37
11 e-mail, it appears that Mr. Rausch is no 14:13:40
12 longer going to send the peculiar order 14:13:45
13 reports on to DEA; is that accurate? 14:13:46
14 A. Yes. 14:13:49
15 Q. And did you agree with that 14:13:50
16 practice? 14:13:51
17 A. Yes. 14:13:52
18 Q. Okay. And you agreed with that 14:13:55
19 because you were going to revamp and improve 14:13:56
20 your SOM program, correct? 14:14:02
21 A. Yes. 14:14:03
22 Q. You can set that one aside. 14:14:04
23 Actually, I take that back. 14:14:37
24 Sorry to jump around again. 14:14:39
25 A. No worries. 14:14:40

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1 Q. But can you grab that document 14:14:41
2 again? 14:14:44
3 A. Is this number 1? 14:14:44
4 Q. Yes. 14:14:44
5 A. Stewart? 14:14:46
6 Q. Stewart Exhibit 1. 14:14:48
7 A. All right. Yes, I have it. 14:14:50
8 Q. And Mr. Ratliff indicates to 14:14:50
9 the recipients of this e-mail, including you, 14:14:57
10 that "I advised that we have a conference 14:15:00
11 call planned with Frank Sapienza on Friday to 14:15:04
12 strengthen our suspicious order 14:15:07
13 identification system." 14:15:10
14 Did I read that correctly? 14:15:12
15 A. Yes. 14:15:12
16 Q. So do you agree -- do you agree 14:15:12
17 with Bill's sentiment at that time that your 14:15:13
18 suspicious order monitoring system needed to 14:15:17
19 be strengthened? 14:15:20
20 MR. O'CONNOR: Objection to 14:15:21
21 form. 14:15:22
22 THE WITNESS: No. 14:15:22
23 QUESTIONS BY MR. KO: 14:15:22
24 Q. You did not believe it needed 14:15:22
25 to be strengthened? 14:15:24

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1 A. Semantics. I believe it needed 14:15:25
2 to be enhanced, but I would not have used the 14:15:27
3 word "strengthen." 14:15:29
4 Q. Okay. So as of April 1, 2008, 14:15:31
5 you believed that Mallinckrodt's suspicious 14:15:34
6 order monitoring program needed to be 14:15:37
7 enhanced? 14:15:38
8 A. Yes. 14:15:38
9 Q. Okay. You can set that one 14:15:39
10 aside. 14:15:42
11 I'm now going to hand you a 14:15:53
12 copy of what will be marked as Harper 14:15:55
13 Exhibit 12. 14:15:57
14 MR. KO: For the record, this 14:15:58
15 is -- ends in Bates stamp 419907. 14:15:58
16 (Mallinckrodt-Harper Exhibit 12 14:16:01
17 marked for identification.) 14:16:02
18 QUESTIONS BY MR. KO: 14:16:02
19 Q. And this is an e-mail chain in 14:16:21
20 which you are involved in in the late April 14:16:24
21 to early May 2008 time period; is that 14:16:27
22 correct? 14:16:35
23 A. Yes. 14:16:35
24 Q. And do you have any reason to 14:16:36
25 doubt that you sent and received the e-mails 14:16:39

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1 reflected in this exhibit? 14:16:43
2 A. No. 14:16:44
3 Q. Okay. And at the very bottom 14:16:45
4 of the first page of the exhibit -- the first 14:16:47
5 page. 14:16:54
6 A. Oh, I'm terribly sorry. 14:16:55
7 Q. That's okay. 14:16:57
8 -- you indicate that on 14:16:58
9 April 23, 2008, you attended a meeting to 14:16:59
10 discuss -- or sorry, you attended a meeting 14:17:01
11 of the Midwest Controlled Substance 14:17:03
12 Discussion Group in Chicago. 14:17:05
13 Do you see that? 14:17:06
14 A. Yes. 14:17:07
15 Q. And that was one of the 14:17:07
16 industry groups involving manufacturers that 14:17:09
17 you had referenced earlier today? 14:17:11
18 A. Yes. 14:17:12
19 Q. And one of the agenda items was 14:17:13
20 suspicious order monitoring, correct? 14:17:18
21 A. Yes. 14:17:19
22 Q. And there is reference made to 14:17:19
23 DEA advice that one member of the industry 14:17:28
24 received. 14:17:31
25 Do you see that? 14:17:31

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1 A. Yes. 14:17:32
2 Q. And the DEA advice that that 14:17:33
3 member received was that the DEA expected 14:17:37
4 registrants to know their customer, correct? 14:17:41
5 A. Correct. 14:17:44
6 Q. And I want to focus on the 14:17:44
7 portion of your e-mail in which you say that 14:17:48
8 "The DEA advice includes comparing" -- quote, 14:17:54
9 "Compare that activity to a bank's obligation 14:17:59
10 to report \$10,000 transactions to law 14:18:01
11 enforcement for detection and money 14:18:03
12 laundering while having the ability to detect 14:18:05
13 multiple transactions at \$9,999." 14:18:08
14 Did I read that correctly? 14:18:14
15 A. Yes. 14:18:14
16 Q. Is it a fair interpretation of 14:18:16
17 what you're saying here that it's important 14:18:21
18 for registrants to not just know about orders 14:18:22
19 that are actually suspicious and violate DEA 14:18:27
20 regulations or statutes, but also to 14:18:33
21 determine whether or not there are other 14:18:37
22 orders that could potentially violate such 14:18:38
23 duties and statutes under the CSA? 14:18:42
24 MR. O'CONNOR: Objection to 14:18:43
25 form. 14:18:44

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1 THE WITNESS: My interpretation 14:18:44
2 of the comment is that the suspicious 14:18:46
3 order monitoring system should detect 14:18:48
4 orders that are causing uplift -- or 14:18:51
5 the algorithm to flag for unusual 14:18:56
6 pattern, size or frequency, but also 14:18:58
7 those that come in by other -- 14:19:00
8 analysis come in just under those 14:19:06
9 metrics. 14:19:07
10 QUESTIONS BY MR. KO: 14:19:07
11 Q. So ones that could potentially 14:19:08
12 be suspicious and ones that could potentially 14:19:09
13 trigger your algorithm, correct? 14:19:12
14 MR. O'CONNOR: Objection. 14:19:12
15 Form. 14:19:13
16 THE WITNESS: Yes. Cause for 14:19:13
17 further review, yes. 14:19:16
18 QUESTIONS BY MR. KO: 14:19:18
19 Q. All right. So in other words, 14:19:18
20 you would agree with me that an effective SOM 14:19:21
21 program would not simply just identify actual 14:19:25
22 orders that are suspicious but orders that 14:19:29
23 come -- using your words, that come close to 14:19:32
24 being suspicious as well, correct? 14:19:37
25 MR. O'CONNOR: Objection to 14:19:38

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1	form. 14:19:39	1	has been marked as Harper Exhibit 13. 14:21:52
2	THE WITNESS: That was the 14:19:39	2	For the record, this e-mail 14:21:58
3	advice given by this member of 14:19:40	3	chain ends in Bates 302096. 14:22:00
4	industry, yes. 14:19:41	4	And this is an e-mail dated 14:22:11
5	QUESTIONS BY MR. KO: 14:19:42	5	November 4, 2008, from Cathy Stewart to 14:22:13
6	Q. And then regardless of the 14:19:42	6	several people, including you, correct? 14:22:15
7	advice given by the member of the industry, 14:19:43	7	A. Correct. 14:22:17
8	is it your opinion that an effective SOM 14:19:45	8	Q. And they appear to attach notes 14:22:17
9	program would both flag actual suspicious 14:19:47	9	that she took at a conference she attended, 14:22:20
10	orders and those that come close to being a 14:19:50	10	and I believe that is the Buzzeeo conference; 14:22:24
11	suspicious order? 14:19:52	11	is that correct? 14:22:26
12	MR. O'CONNOR: Objection to 14:19:52	12	A. Yes. 14:22:26
13	form. 14:19:54	13	Q. Does this refresh your 14:22:27
14	THE WITNESS: Not necessarily, 14:19:54	14	recollection as to whether or not you 14:22:29
15	no. 14:19:55	15	attended this particular conference as well? 14:22:30
16	QUESTIONS BY MR. KO: 14:19:55	16	A. Yes. 14:22:32
17	Q. Okay. So you don't -- you 14:19:56	17	Q. And did you in fact attend this 14:22:33
18	didn't -- you didn't agree with the DEA 14:19:58	18	conference with Ms. Stewart? 14:22:35
19	advice that was being given? 14:19:59	19	A. Yes. 14:22:35
20	A. So this is a person at a 14:20:00	20	Q. Okay. And she indicates in her 14:22:36
21	conference making a comparison, and it was, 14:20:04	21	e-mail to you that "A lot of energy is being 14:22:42
22	again, another suggestion. But we understood 14:20:07	22	focused on suspicious order monitoring." 14:22:46
23	that we were still refining our algorithm at 14:20:11	23	Do you see that? 14:22:50
24	the time to detect orders of unusual pattern, 14:20:15	24	A. Oh, yes. Yes, I do. 14:22:51
25	size and frequency, not necessarily those 14:20:20	25	Q. And do you recall that at 14:22:54
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1	that meet the suggestion. 14:20:23	1	this -- during this Buzzeeo conference in 14:22:56
2	Q. Understood. 14:20:25	2	late -- or fall of 2008 that there was in 14:23:01
3	And you're right, that is the 14:20:26	3	fact a lot of attention being given to 14:23:03
4	fundamental duty at the end of the day. You 14:20:29	4	suspicious order monitoring? 14:23:08
5	were working -- it's correct that at this 14:20:32	5	A. Yes. 14:23:08
6	time you were working on an algorithm to 14:20:33	6	Q. Okay. And she also indicates 14:23:09
7	detect orders of unusual pattern, size and 14:20:35	7	in the second sentence of the second 14:23:17
8	frequency, correct? 14:20:42	8	paragraph -- you know, I've been talking 14:23:21
9	A. Yes. 14:20:43	9	quite a bit, so I'll let you -- if you don't 14:23:25
10	Q. Okay. You can set that one 14:20:43	10	mind, do you want to read that second 14:23:28
11	aside. 14:20:53	11	sentence? 14:23:29
12	(Mallinckrodt-Harper Exhibit 13 14:21:15	12	A. The second sentence of the 14:23:29
13	marked for identification.) 14:21:15	13	second paragraph? 14:23:30
14	QUESTIONS BY MR. KO: 14:21:15	14	Q. Yeah. 14:23:30
15	Q. Now, you said previously that 14:21:24	15	A. "Other highlights, i.e., more 14:23:31
16	you recall attending the Buzzeeo conferences 14:21:25	16	intensive focus on carriers, are provided as 14:23:34
17	in certain years when you were senior manager 14:21:27	17	a heads-up that this is on its way." 14:23:37
18	of controlled substance compliance group, 14:21:29	18	Q. And can you read the sentence 14:23:41
19	correct? 14:21:32	19	before that? 14:23:42
20	A. Yes. 14:21:32	20	A. "The attached is for 14:23:43
21	Q. And do you recall attending in 14:21:33	21	informational" -- oh, I'm sorry. 14:23:45
22	2007 and 2008? 14:21:35	22	Q. The sentence before that. 14:23:47
23	A. I don't -- I can't recall the 14:21:37	23	A. "As the team leader, I will 14:23:48
24	dates. 14:21:39	24	depend on Karen Harper to determine which 14:23:53
25	Q. I'll hand you a copy of what 14:21:40	25	areas of our SOM process may need to be 14:23:55

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1 looked at again." 14:23:57
 2 Q. Okay. So certainly from the 14:23:58
 3 perspective of Ms. Stewart, she believed that 14:23:59
 4 you were the team leader of the SOM process; 14:24:01
 5 is that correct? 14:24:04
 6 A. That's what this states, yes. 14:24:04
 7 Q. Okay. And you, in fact, 14:24:06
 8 believed that you were effectively the team 14:24:08
 9 leader for the enhancement of the SOM process 14:24:10
 10 during this time period, correct? 14:24:12
 11 MR. O'CONNOR: Objection. 14:24:13
 12 Form. 14:24:14
 13 THE WITNESS: Yes. 14:24:14
 14 QUESTIONS BY MR. KO: 14:24:15
 15 Q. And turning the next -- turning 14:24:19
 16 to the next page, you see her actual notes. 14:24:20
 17 Do you recall reading and 14:24:27
 18 reviewing these notes? 14:24:29
 19 A. Yes. 14:24:30
 20 Q. Okay. She indicates that, 14:24:32
 21 quote, "We must also formally document the 14:24:43
 22 investigation of each peculiar, suspicious, 14:24:47
 23 peculiar, order that gets identified, 14:24:51
 24 including the hows and the whys of the logic 14:24:53
 25 we used to deem the order appropriate to ship 14:24:55

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1 or not." 14:24:58
 2 Did I read that correctly? 14:24:59
 3 A. Yes. 14:24:59
 4 Q. Okay. And do you recall 14:25:00
 5 whether or not you implemented that policy 14:25:01
 6 change into the enhanced SOM program? 14:25:05
 7 MR. O'CONNOR: Objection to 14:25:08
 8 form. 14:25:09
 9 THE WITNESS: Yes. Yes, we 14:25:09
 10 did. Pardon me. 14:25:12
 11 QUESTIONS BY MR. KO: 14:25:13
 12 Q. So is it your testimony that 14:25:13
 13 for the revised and enhanced SOM program that 14:25:15
 14 you eventually rolled out at a future date 14:25:18
 15 from the date of this e-mail, you formally 14:25:21
 16 documented every single peculiar order, 14:25:23
 17 including the hows and whys of the logic we 14:25:30
 18 used to deemed the order appropriate to ship 14:25:35
 19 or not? 14:25:37
 20 A. Yes. 14:25:37
 21 Q. Okay. And do you know whether 14:25:37
 22 or not those -- and I think earlier I had 14:25:38
 23 said "peculiar, suspicious, peculiar," but I 14:25:40
 24 mean to say "particular suspicious." 14:25:42
 25 A. That's how the sentence reads. 14:25:43

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1 Q. Right. So -- 14:25:43
 2 A. Yes. 14:25:44
 3 Q. I apologize for that. 14:25:45
 4 A. Quite all right. 14:25:50
 5 Q. Do you know whether or not the 14:25:51
 6 formal documentation was contained in any 14:25:52
 7 sort of database? 14:25:56
 8 A. It is, yes. 14:25:57
 9 Q. Okay. And what database would 14:25:58
 10 that all be kept in? 14:26:00
 11 A. It's the share drive at 14:26:02
 12 Mallinckrodt. 14:26:05
 13 Q. Okay. And so your testimony is 14:26:06
 14 that every single order that was identified 14:26:08
 15 as suspicious was formally documented, or is 14:26:11
 16 it your testimony that every single order 14:26:17
 17 that was identified as peculiar was formally 14:26:19
 18 documented, or both? 14:26:21
 19 MR. O'CONNOR: Objection to 14:26:21
 20 form. 14:26:22
 21 THE WITNESS: Both, but not 14:26:22
 22 necessarily at that time. But as time 14:26:24
 23 went on, yes, every order review was 14:26:26
 24 documented and why. 14:26:29
 25

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1 QUESTIONS BY MR. KO: 14:26:30
 2 Q. Okay. And do you recall 14:26:30
 3 approximately when that formal documentation 14:26:31
 4 began? 14:26:36
 5 A. In 2012. 14:26:37
 6 Q. Okay. So that would be four 14:26:41
 7 years after the date of this particular 14:26:44
 8 e-mail, correct? 14:26:48
 9 A. Correct. 14:26:48
 10 Q. Do you know why it took so 14:26:49
 11 along to enact that policy? 14:26:51
 12 A. So we were working on enhancing 14:26:53
 13 our program again. I keep stating that. 14:26:56
 14 These are suggestions by 14:27:00
 15 breakout speakers and not necessarily -- she 14:27:03
 16 talks about they're not all-inclusive, 14:27:06
 17 they're for informational purposes. 14:27:09
 18 So it was our intent to do so, 14:27:10
 19 but we had not completely incorporated the 14:27:13
 20 explanation into every order that was 14:27:17
 21 reviewed at that time. 14:27:19
 22 Q. But you -- excuse me. You did 14:27:21
 23 ultimately adopt a system whereby you 14:27:25
 24 formally documented every peculiar and 14:27:27
 25 suspicious order in 2012, correct? 14:27:29

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1 A. Yes. 14:27:31

2 Q. And that's four years after you 14:27:32

3 first discussed the possibility of doing so, 14:27:33

4 correct? 14:27:35

5 A. It's four years after the topic 14:27:36

6 was made -- mentioned at a conference, yes. 14:27:38

7 Q. And reference was made by 14:27:40

8 Ms. Stewart that "we must also formally 14:27:44

9 document." 14:27:47

10 Did I read that correctly? 14:27:47

11 So just the record -- just so 14:27:56

12 the record is clear, Ms. Stewart indicates in 14:27:57

13 her notes that, quote, "We must also formally 14:28:00

14 document the investigation of each particular 14:28:04

15 suspicious, open parens, peculiar, close 14:28:09

16 parens, order that gets identified," end 14:28:11

17 quote. 14:28:15

18 Did I read that correctly? 14:28:15

19 A. Yes, you did. 14:28:15

20 Q. Okay. So as of the fall 14:28:16

21 of 2008, she is suggesting, is she not, that 14:28:21

22 you must formally document each suspicious or 14:28:23

23 peculiar order? 14:28:25

24 A. She is relaying those notes 14:28:25

25 from the conference, not necessarily as a 14:28:29

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1 mandate that we incorporate them. 14:28:32

2 Q. Sure. 14:28:34

3 A. So they're notes that she took 14:28:35

4 at a conference. 14:28:38

5 Q. Right. And I understand it's 14:28:39

6 not a mandate, but she is making a suggestion 14:28:39

7 that you should formally document each 14:28:41

8 suspicious and peculiar order, is she not? 14:28:43

9 A. Not necessarily. She's 14:28:44

10 relaying comments made at a conference by a 14:28:45

11 speaker. 14:28:47

12 Q. Okay. Is it fair to say 14:28:48

13 that -- this Buzzeeo conference that you 14:28:49

14 attended each year, it was an important 14:28:53

15 conference, correct? 14:28:56

16 A. Yes. 14:28:56

17 Q. And it was a conference in 14:28:56

18 which you would gain important insight 14:28:58

19 regarding your duties under the CSA to 14:29:01

20 maintain effective controls against 14:29:03

21 diversion, among other things, correct? 14:29:05

22 MR. O'CONNOR: Objection to 14:29:06

23 form. 14:29:06

24 THE WITNESS: Yes. 14:29:06

25

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1 QUESTIONS BY MR. KO: 14:29:07

2 Q. And as we described earlier, 14:29:07

3 there weren't necessarily other 14:29:10

4 extracurricular activities that you were 14:29:12

5 involved in with respect to your diversion 14:29:14

6 responsibilities at Mallinckrodt, correct? 14:29:16

7 MR. O'CONNOR: Objection to 14:29:18

8 form. 14:29:18

9 THE WITNESS: Correct. 14:29:18

10 QUESTIONS BY MR. KO: 14:29:19

11 Q. And so this conference was an 14:29:19

12 important conference for you to attend in 14:29:21

13 which you could further understand your 14:29:23

14 responsibilities under the CSA, correct? 14:29:25

15 MR. O'CONNOR: Objection to 14:29:27

16 form. 14:29:28

17 THE WITNESS: Yes. 14:29:28

18 QUESTIONS BY MR. KO: 14:29:28

19 Q. So is it fair to say that the 14:29:29

20 advice and suggestions that were borne out of 14:29:31

21 this conference were important suggestions to 14:29:34

22 follow? 14:29:38

23 MR. O'CONNOR: Objection to 14:29:39

24 form. 14:29:40

25 THE WITNESS: They were 14:29:40

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1 elements to be considered as part of 14:29:41

2 our suspicious order monitoring 14:29:42

3 program, not necessarily a mandate to 14:29:44

4 be followed. 14:29:46

5 QUESTIONS BY MR. KO: 14:29:48

6 Q. Okay. And an element to be 14:29:48

7 considered as of the fall of 2008 was formal 14:29:49

8 documentation of every single peculiar and 14:29:51

9 suspicious order, correct? 14:29:54

10 A. Yes, based upon one of the 14:29:54

11 conference speakers, yes, sir. 14:29:56

12 Q. And again, it took you four 14:29:57

13 years to actually implement a system in which 14:30:06

14 you would formally document each peculiar or 14:30:09

15 suspicious order, correct? 14:30:13

16 A. Yes. 14:30:15

17 Q. And during that four-year time 14:30:17

18 period, do you have any understanding of how 14:30:21

19 many pills were diverted in the country, 14:30:25

20 Mallinckrodt pills were diverted in the 14:30:27

21 country? 14:30:29

22 MR. O'CONNOR: Objection to 14:30:29

23 form. 14:30:30

24 THE WITNESS: I do not. 14:30:30

25

<p style="text-align: right;">Page 278</p> <p>1 QUESTIONS BY MR. KO: 14:30:30</p> <p>2 Q. Do you have an understanding of 14:30:32</p> <p>3 whether or not that time period reflected the 14:30:33</p> <p>4 peak of pills that were being distributed 14:30:39</p> <p>5 into Florida? 14:30:43</p> <p>6 MR. O'CONNOR: Objection to 14:30:43</p> <p>7 form. 14:30:44</p> <p>8 THE WITNESS: Yes. 14:30:44</p> <p>9 QUESTIONS BY MR. KO: 14:30:44</p> <p>10 Q. You do have an understanding, 14:30:44</p> <p>11 correct? 14:30:45</p> <p>12 A. Yes. 14:30:45</p> <p>13 Q. And during that time period 14:30:45</p> <p>14 there were -- there was a large concern from 14:30:47</p> <p>15 2008 through 2012 that many of Mallinckrodt 14:30:51</p> <p>16 pills were going into Florida and being 14:30:54</p> <p>17 abused and diverted, correct? 14:30:56</p> <p>18 MR. O'CONNOR: Objection to 14:30:57</p> <p>19 form. 14:30:58</p> <p>20 THE WITNESS: Yes. 14:30:58</p> <p>21 QUESTIONS BY MR. KO: 14:31:00</p> <p>22 Q. Okay. Do you believe that 14:31:04</p> <p>23 earlier adoption of the formal documentation 14:31:05</p> <p>24 to identify peculiar or suspicious orders 14:31:07</p> <p>25 would have helped stop the flow of diversion 14:31:10</p>	<p style="text-align: right;">Page 280</p> <p>1 QUESTIONS BY MR. KO: 14:31:52</p> <p>2 Q. So are you going to follow your 14:31:58</p> <p>3 counsel's instruction? 14:31:59</p> <p>4 A. Yes, sir. 14:31:59</p> <p>5 Q. Okay. Now, I know you said 14:32:00</p> <p>6 earlier that this wasn't necessarily a 14:32:09</p> <p>7 mandate but a suggestion. 14:32:11</p> <p>8 But is there any reason you can 14:32:13</p> <p>9 think of for not following this advice that 14:32:14</p> <p>10 you learned at the Buzzee conference in 2008? 14:32:19</p> <p>11 A. No. 14:32:21</p> <p>12 Q. Okay. Now, one thing -- going 14:32:22</p> <p>13 down to the fifth paragraph of this page, 14:32:27</p> <p>14 Ms. Stewart writes in her notes that "The 14:32:36</p> <p>15 general consensus is that sales reps are not 14:32:38</p> <p>16 considered a good option for on-site 14:32:42</p> <p>17 investigations and initial review prior to 14:32:44</p> <p>18 accepting new customers due to their 14:32:47</p> <p>19 perceived bias in getting the customer 14:32:48</p> <p>20 approved for sales revenue purposes." 14:32:50</p> <p>21 Did I read that correctly? 14:32:53</p> <p>22 A. Yes. 14:32:55</p> <p>23 Q. And so understanding your 14:32:56</p> <p>24 perspective that these aren't necessarily 14:33:02</p> <p>25 mandates, but is it fair to say that one 14:33:04</p>
<p style="text-align: right;">Page 279</p> <p>1 and abuse that was occurring of Mallinckrodt 14:31:13</p> <p>2 pills had you implemented this policy 14:31:16</p> <p>3 earlier? 14:31:18</p> <p>4 MR. O'CONNOR: Objection to 14:31:18</p> <p>5 form. 14:31:18</p> <p>6 THE WITNESS: No. 14:31:18</p> <p>7 QUESTIONS BY MR. KO: 14:31:19</p> <p>8 Q. You don't believe that? 14:31:19</p> <p>9 A. I do not. 14:31:20</p> <p>10 Q. Okay. So you don't -- well, 14:31:21</p> <p>11 then why did you adopt this formal procedure 14:31:23</p> <p>12 in 2012? 14:31:25</p> <p>13 A. It was -- as we continued the 14:31:25</p> <p>14 enhancement of our program, it was -- 14:31:30</p> <p>15 THE WITNESS: This may be a 14:31:36</p> <p>16 privileged -- 14:31:37</p> <p>17 MR. O'CONNOR: Then I guess I 14:31:39</p> <p>18 would instruct you not to answer with 14:31:40</p> <p>19 respect to any sort of attorney-client 14:31:42</p> <p>20 communications. 14:31:46</p> <p>21 But you can answer to the 14:31:46</p> <p>22 extent you can without getting into 14:31:47</p> <p>23 those communications with counsel. 14:31:48</p> <p>24 THE WITNESS: Okay. 14:31:49</p> <p>25</p>	<p style="text-align: right;">Page 281</p> <p>1 thing -- one piece of advice and/or a 14:33:06</p> <p>2 suggestion that you learned following this 14:33:09</p> <p>3 conference was that the general consensus is 14:33:11</p> <p>4 that sales reps should not be involved in 14:33:15</p> <p>5 reviewing new customers due to their 14:33:19</p> <p>6 perceived bias in getting sales? 14:33:21</p> <p>7 MR. O'CONNOR: Objection to 14:33:23</p> <p>8 form. 14:33:24</p> <p>9 THE WITNESS: That's correct, 14:33:24</p> <p>10 and we did not. 14:33:26</p> <p>11 QUESTIONS BY MR. KO: 14:33:28</p> <p>12 Q. In other words -- well, I think 14:33:29</p> <p>13 you were asking {sic} my next question. 14:33:32</p> <p>14 So you never had sales reps 14:33:34</p> <p>15 involved in initial reviews of -- initial 14:33:36</p> <p>16 reviews of new customers? 14:33:42</p> <p>17 A. So we had -- we had the sales 14:33:43</p> <p>18 force calling on customers. We had an 14:33:46</p> <p>19 independent new customer setup process -- 14:33:48</p> <p>20 Q. Right. 14:33:51</p> <p>21 A. -- which involved the customer 14:33:51</p> <p>22 filling out the application. 14:33:52</p> <p>23 At one time we considered that 14:33:54</p> <p>24 the sales reps would fill out the 14:33:55</p> <p>25 application, and we -- we did not utilize 14:33:58</p>

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1 that -- 14:34:02

2 Q. Okay. 14:34:02

3 A. -- as part of the program. 14:34:02

4 So the customer fills out the 14:34:03

5 application. We run the credit, the Dun & 14:34:05

6 Bradstreet, et cetera. And that's the way -- 14:34:08

7 so it's not predicated upon the salesperson's 14:34:10

8 review of the customer. 14:34:14

9 Q. And by the way, the sales reps 14:34:16

10 referred to here, again, are these both NAMs 14:34:18

11 and CSRs, or NAMs or CSRs, or which -- which 14:34:22

12 sales reps is Cathy referring to? 14:34:26

13 MR. O'CONNOR: Objection to 14:34:27

14 form. 14:34:28

15 THE WITNESS: NAMs. 14:34:28

16 QUESTIONS BY MR. KO: 14:34:29

17 Q. NAMs. Okay. 14:34:29

18 And so your testimony is that 14:34:29

19 NAMs were not involved in any initial review 14:34:32

20 of new customers? 14:34:36

21 A. Not to my knowledge. 14:34:38

22 Q. Okay. So if -- if for purposes 14:34:41

23 of the new checklist -- new customer 14:34:46

24 checklist form NAMs had some input and 14:34:49

25 involvement, that would be contrary to your 14:34:51

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1 expectation -- 14:34:53

2 MR. O'CONNOR: Objection. 14:34:54

3 Form. 14:34:55

4 QUESTIONS BY MR. KO: 14:34:56

5 Q. -- is that correct? 14:34:56

6 A. I don't -- can you provide more 14:34:57

7 detail to give me more information to answer 14:35:01

8 the question, please? 14:35:03

9 Q. Sure. 14:35:04

10 Well, maybe I'll -- I'll try it 14:35:05

11 this way. Did you believe in the fall 14:35:07

12 of 2008 that it was a good idea to consult 14:35:11

13 national account managers in connection with 14:35:14

14 approval of new customers for purposes of 14:35:17

15 filling out the new customer checklist? 14:35:22

16 MR. O'CONNOR: Objection to 14:35:24

17 form. 14:35:25

18 THE WITNESS: No. 14:35:25

19 QUESTIONS BY MR. KO: 14:35:25

20 Q. Okay. And how about with 14:35:26

21 respect to determining whether or not any 14:35:28

22 orders of new customers were peculiar and/or 14:35:33

23 suspicious? Did you believe that NAMs had 14:35:37

24 any involvement in that process following the 14:35:41

25 fall of 2008? 14:35:45

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1 A. Yes. 14:35:47

2 Q. They did have involvement? 14:35:48

3 A. Yes. 14:35:49

4 Q. Okay. And what involvement -- 14:35:50

5 what did that involvement consist of? 14:35:52

6 A. So if an order was flagged as 14:35:54

7 peculiar, suspicious, unusual, whatever the 14:35:57

8 naming convention was at the time, we would 14:36:00

9 at times consult with the NAMs to ask them if 14:36:05

10 they had more information on the account that 14:36:08

11 would help us in our review of that order 14:36:12

12 that had been flagged. 14:36:14

13 Q. Okay. And sometimes they would 14:36:15

14 clear these orders, correct? 14:36:18

15 MR. O'CONNOR: Objection to 14:36:19

16 form. 14:36:20

17 THE WITNESS: Yes. Yes. 14:36:20

18 QUESTIONS BY MR. KO: 14:36:23

19 Q. In other words, sometimes they 14:36:24

20 would conclusively -- or sometimes they would 14:36:27

21 make the recommendation to you that that 14:36:28

22 particular order was not suspicious 14:36:31

23 sufficient to alert the DEA, correct? 14:36:34

24 MR. O'CONNOR: Objection to 14:36:36

25 form. 14:36:36

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1 THE WITNESS: Yes, with 14:36:36

2 appropriate explanation, yes. 14:36:38

3 QUESTIONS BY MR. KO: 14:36:39

4 Q. Right. 14:36:40

5 And that explanation, what did 14:36:40

6 that usually consist of? Was that in the 14:36:43

7 form of an e-mail? A telephone call? 14:36:46

8 MR. O'CONNOR: Objection. 14:36:49

9 QUESTIONS BY MR. KO: 14:36:49

10 Q. How did that message -- how was 14:36:49

11 that message conveyed to you? 14:36:51

12 A. It could have been either, 14:36:53

13 e-mail or telephone. 14:36:55

14 Q. But we know at least from the 14:36:56

15 2008 to 2012 time period, there was no formal 14:37:01

16 documentation of that, correct? 14:37:04

17 A. Not relative to every order 14:37:05

18 that was flagged by the algorithm, correct. 14:37:08

19 Q. Okay. And separate and apart 14:37:10

20 from what's included in Ms. Stewart's notes, 14:37:15

21 do you believe having salespeople involved in 14:37:19

22 the identification of suspicious orders is a 14:37:21

23 good thing? 14:37:25

24 MR. O'CONNOR: Objection to 14:37:26

25 form. 14:37:27

<p style="text-align: right;">Page 286</p> <p>1 THE WITNESS: No. They -- 14:37:27</p> <p>2 facilitating in the review, yes, but 14:37:31</p> <p>3 not in the identification, no. I do 14:37:33</p> <p>4 not think they should be involved. 14:37:36</p> <p>5 QUESTIONS BY MR. KO: 14:37:38</p> <p>6 Q. Okay. And so if they were -- 14:37:39</p> <p>7 so I understand this is a hypothetical, but 14:37:43</p> <p>8 bear with me. 14:37:45</p> <p>9 So would it be appropriate then 14:37:46</p> <p>10 if a national account manager was the only 14:37:49</p> <p>11 source for determining whether or not a 14:37:57</p> <p>12 peculiar order was suspicious or not? 14:38:00</p> <p>13 A. Yes. 14:38:01</p> <p>14 Q. It would be appropriate? 14:38:01</p> <p>15 A. Yes. 14:38:02</p> <p>16 Q. So in that case, isn't the NAM 14:38:03</p> <p>17 the only person providing input as to whether 14:38:07</p> <p>18 or not an order is suspicious? 14:38:09</p> <p>19 A. Yes. 14:38:10</p> <p>20 Q. Okay. And so you're saying 14:38:15</p> <p>21 that's okay? 14:38:16</p> <p>22 A. Yes. 14:38:17</p> <p>23 Q. Okay. So you don't have any 14:38:17</p> <p>24 problems, as someone who is in charge of 14:38:20</p> <p>25 running a suspicious order monitoring 14:38:22</p>	<p style="text-align: right;">Page 288</p> <p>1 believe that conflict of interest exists in 14:39:17</p> <p>2 having an individual who has a financial 14:39:20</p> <p>3 incentive to create new sales also determine 14:39:23</p> <p>4 whether or not an order is suspicious? 14:39:25</p> <p>5 MR. O'CONNOR: Objection to 14:39:27</p> <p>6 form. 14:39:28</p> <p>7 THE WITNESS: I believe that 14:39:28</p> <p>8 the greater incentive is regulatory 14:39:30</p> <p>9 compliance and DEA compliance, as was 14:39:33</p> <p>10 carried throughout our organization, 14:39:36</p> <p>11 would override any financial 14:39:38</p> <p>12 incentive. 14:39:40</p> <p>13 QUESTIONS BY MR. KO: 14:39:41</p> <p>14 Q. Do you believe that the 14:39:42</p> <p>15 national account managers had -- believed 14:39:43</p> <p>16 that they had a greater incentive to comply 14:39:45</p> <p>17 with the regulatory statutes laid out under 14:39:48</p> <p>18 the CSA? 14:39:51</p> <p>19 A. Yes. 14:39:53</p> <p>20 Q. Okay. And you believe -- well, 14:39:54</p> <p>21 strike that. 14:39:57</p> <p>22 Do you recall following the 14:39:57</p> <p>23 date of this particular Buzzeo conference 14:40:13</p> <p>24 ever discussing removing NAMs from the 14:40:16</p> <p>25 suspicious order monitoring and peculiar 14:40:22</p>
<p style="text-align: right;">Page 287</p> <p>1 program, of having national account managers 14:38:24</p> <p>2 who have an incentive for new sales and new 14:38:29</p> <p>3 business to be involved in the decision of 14:38:34</p> <p>4 whether or not to identify an order as 14:38:36</p> <p>5 suspicious or not? 14:38:39</p> <p>6 MR. O'CONNOR: Objection to 14:38:39</p> <p>7 form. 14:38:40</p> <p>8 THE WITNESS: I do not have any 14:38:40</p> <p>9 problem with that. 14:38:44</p> <p>10 QUESTIONS BY MR. KO: 14:38:45</p> <p>11 Q. Okay. National account 14:38:45</p> <p>12 managers at Mallinckrodt were compensated on 14:38:47</p> <p>13 a commission -- or excuse me. 14:38:48</p> <p>14 Do you have an understanding of 14:38:50</p> <p>15 how national account managers were 14:38:52</p> <p>16 compensated? 14:38:53</p> <p>17 A. I do not. 14:38:53</p> <p>18 Q. Do you understand that national 14:38:54</p> <p>19 account managers had a -- received a 14:38:58</p> <p>20 commission based on the amount of sales 14:39:01</p> <p>21 activity that they were able to retain? 14:39:04</p> <p>22 A. I don't know how their pay is 14:39:06</p> <p>23 structured. 14:39:08</p> <p>24 Q. Okay. Setting aside whether or 14:39:09</p> <p>25 not you knew how NAMs were paid, don't you 14:39:12</p>	<p style="text-align: right;">Page 289</p> <p>1 order monitoring review structure? 14:40:22</p> <p>2 A. No. 14:40:25</p> <p>3 Q. Okay. Do you ever recall 14:40:27</p> <p>4 removing any member of sales force -- that 14:40:30</p> <p>5 includes NAMs and customer service reps -- 14:40:33</p> <p>6 from the peculiar order/suspicious order 14:40:37</p> <p>7 review system? 14:40:41</p> <p>8 A. No. 14:40:43</p> <p>9 Q. Okay. You can set this 14:40:43</p> <p>10 document aside. 14:40:53</p> <p>11 (Mallinckrodt-Harper Exhibit 14 14:40:57</p> <p>12 marked for identification.) 14:40:58</p> <p>13 QUESTIONS BY MR. KO: 14:40:58</p> <p>14 Q. I'm going to hand you a copy of 14:40:58</p> <p>15 what will be marked as Harper Exhibit 14. 14:40:59</p> <p>16 Now, do you recall -- I know 14:41:35</p> <p>17 you said you didn't recall the specifics of 14:41:54</p> <p>18 how NAMs were compensated at Mallinckrodt, 14:41:57</p> <p>19 but do you know whether or not they received 14:41:59</p> <p>20 any bonuses based in part of the volume of 14:42:01</p> <p>21 their sales of controlled substances 14:42:03</p> <p>22 manufactured by Mallinckrodt? 14:42:05</p> <p>23 A. I do not know. 14:42:06</p> <p>24 Q. Did you ever inquire as to 14:42:07</p> <p>25 whether or not they were being compensated on 14:42:10</p>

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<p>1 that basis? 14:42:11</p> <p>2 A. Nope. 14:42:12</p> <p>3 Q. How come you never inquired 14:42:13</p> <p>4 about that? 14:42:15</p> <p>5 A. Because the controlled 14:42:15</p> <p>6 substances compliance group operated, to the 14:42:19</p> <p>7 extent it was possible, autonomously unless 14:42:21</p> <p>8 we needed guidance from the NAMs on specific 14:42:27</p> <p>9 orders. So I never knew how they were 14:42:30</p> <p>10 compensated, why. I don't know how much 14:42:32</p> <p>11 oxycodone was sold for. I don't know any of 14:42:34</p> <p>12 the financial pieces of that. 14:42:38</p> <p>13 Q. Sure. 14:42:38</p> <p>14 A. Thank you. 14:42:40</p> <p>15 Q. Okay. And you say that you 14:42:41</p> <p>16 needed -- at times you needed guidance from 14:42:45</p> <p>17 them on specific -- you needed guidance from 14:42:47</p> <p>18 NAMs on specific orders -- 14:42:50</p> <p>19 A. Uh-huh. 14:42:53</p> <p>20 Q. -- with respect to identifying 14:42:53</p> <p>21 a peculiar or suspicious order, correct? 14:42:55</p> <p>22 A. Not identifying but reviewing. 14:42:57</p> <p>23 Q. Reviewing. 14:43:00</p> <p>24 With the ultimate goal of 14:43:01</p> <p>25 trying to determine whether or not that order 14:43:02</p>	<p>1 QUESTIONS BY MR. KO: 14:43:47</p> <p>2 Q. Correct. 14:43:47</p> <p>3 But for some? 14:43:47</p> <p>4 A. For some, yes. 14:43:48</p> <p>5 Q. Okay. So is it the case that 14:43:50</p> <p>6 for some orders, national account managers 14:43:53</p> <p>7 played an integral role in determining 14:43:56</p> <p>8 whether or not a peculiar order was 14:43:59</p> <p>9 ultimately determined to be suspicious? 14:44:00</p> <p>10 MR. O'CONNOR: Objection to 14:44:02</p> <p>11 form. 14:44:03</p> <p>12 THE WITNESS: They assisted in 14:44:03</p> <p>13 the review, and the ultimate decision 14:44:05</p> <p>14 about whether the order was suspicious 14:44:06</p> <p>15 or not rests -- always did rest with 14:44:08</p> <p>16 the controlled substances compliance 14:44:11</p> <p>17 group. 14:44:12</p> <p>18 QUESTIONS BY MR. KO: 14:44:12</p> <p>19 Q. Including you and Mr. Ratliff, 14:44:13</p> <p>20 among other people, correct? 14:44:14</p> <p>21 A. Correct. 14:44:15</p> <p>22 Q. Okay. So if -- in the scenario 14:44:16</p> <p>23 we were just discussing, if the national 14:44:21</p> <p>24 account manager -- well, strike that. 14:44:25</p> <p>25 When the national account 14:44:28</p>
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<p>1 was suspicious, correct? 14:43:04</p> <p>2 A. Correct. 14:43:05</p> <p>3 Q. So NAMs played -- would you 14:43:06</p> <p>4 agree with me that NAMs played an integral 14:43:10</p> <p>5 role in determining whether or not an order 14:43:13</p> <p>6 could potentially be suspicious? 14:43:15</p> <p>7 MR. O'CONNOR: Objection to 14:43:16</p> <p>8 form. 14:43:18</p> <p>9 THE WITNESS: Certain orders. 14:43:18</p> <p>10 May I explain or -- 14:43:21</p> <p>11 QUESTIONS BY MR. KO: 14:43:23</p> <p>12 Q. Well, let me -- certain orders. 14:43:24</p> <p>13 Do you mean certain orders that were 14:43:25</p> <p>14 previously flagged as peculiar? 14:43:27</p> <p>15 A. Yes. 14:43:28</p> <p>16 Q. Okay. So once an order was 14:43:29</p> <p>17 flagged as peculiar, is it accurate to say 14:43:30</p> <p>18 that NAMs played an integral role in 14:43:34</p> <p>19 determining whether or not that peculiar 14:43:39</p> <p>20 order was ultimately deemed to be suspicious 14:43:41</p> <p>21 sufficient to notify the DEA? 14:43:45</p> <p>22 MR. O'CONNOR: Objection to 14:43:46</p> <p>23 form. 14:43:46</p> <p>24 THE WITNESS: Not every order. 14:43:46</p> <p>25</p>	<p>1 manager was assisting in the review of 14:44:38</p> <p>2 whether or not a peculiar order was deemed -- 14:44:39</p> <p>3 was going to be deemed as suspicious or not, 14:44:43</p> <p>4 can you think of any instances in which the 14:44:46</p> <p>5 input of the national account manager was the 14:44:53</p> <p>6 only input you received in making a 14:44:55</p> <p>7 determination of whether or not the order was 14:44:57</p> <p>8 suspicious? 14:44:59</p> <p>9 A. Yes, outside of the controlled 14:45:00</p> <p>10 substances compliance group, yes. 14:45:06</p> <p>11 Q. Were there instances in which 14:45:07</p> <p>12 the determination that the -- that you and 14:45:14</p> <p>13 Mr. Ratliff made as to whether an order was 14:45:17</p> <p>14 suspicious or not relied solely on the input 14:45:19</p> <p>15 of a national account manager? 14:45:23</p> <p>16 A. Yes. 14:45:24</p> <p>17 QUESTIONS BY MR. KO: 14:45:43</p> <p>18 Q. Okay. I'm going to hand you a 14:45:38</p> <p>19 copy of what's going to be marked as Harper 14:45:40</p> <p>20 Exhibit 14. 14:45:43</p> <p>21 MR. KO: And this is, for the 14:45:46</p> <p>22 record, an e-mail from Dave Hunter to 14:45:51</p> <p>23 several people, including you, on 14:45:55</p> <p>24 November 19, 2009, and Bates ending in 14:45:58</p> <p>25 278806. 14:46:03</p>

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1 QUESTIONS BY MR. KO: 14:46:03
2 Q. Do you recall this -- or do you 14:46:13
3 have any reason to dispute that you received 14:46:15
4 this e-mail? 14:46:16
5 A. I have no reason to dispute. 14:46:17
6 Q. Okay. And here Mr. Hunter is 14:46:18
7 attaching notes from the Buzzeo conference I 14:46:21
8 believe he attends in 2009; is that correct? 14:46:27
9 A. Yes. Seeing this, so, yes. 14:46:29
10 Q. Okay. And do you recall 14:46:33
11 attending this particular Buzzeo conference 14:46:34
12 as well? 14:46:35
13 A. I do not. 14:46:35
14 Q. Okay. So you recall attending 14:46:36
15 the 2008 Buzzeo conference with Ms. Stewart, 14:46:39
16 but you don't recall attending this 14:46:41
17 conference with Mr. Hunter; is that fair? 14:46:43
18 A. That's fair. 14:46:46
19 Q. Okay. Do you recall Mr. Hunter 14:46:48
20 sending these notes to you about what 14:46:54
21 transpired at this particular Buzzeo 14:46:59
22 conference? 14:47:01
23 A. I do not specifically recall 14:47:02
24 it, but I can refamiliarize myself with the 14:47:05
25 content. 14:47:08

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1 Q. Sure. 14:47:08
2 And there are notes. I just 14:47:09
3 want to turn to the first page of notes that 14:47:11
4 he drafts. These appear to be notes that he 14:47:17
5 has created following his attendance at the 14:47:20
6 2009 Buzzeo conference; is that correct? 14:47:24
7 A. Yes. 14:47:25
8 Q. And looking down at the bottom 14:47:28
9 of this page, he indicates where I'm 14:47:32
10 highlighting right now, "Sir, suspicious 14:47:34
11 order monitoring was certainly a hotbed of 14:47:37
12 discussion." 14:47:39
13 Do you see that? 14:47:40
14 A. So that's a question, yes, 14:47:40
15 that's a question as documented here. 14:47:44
16 Q. Right. 14:47:45
17 And it's a question by someone 14:47:46
18 in the audience, some registrant or someone 14:47:47
19 who attended the conference, correct? 14:47:50
20 A. Yes. 14:47:51
21 Q. Okay. And so it's fair to say 14:47:52
22 that as of the fall of 2009, their 14:47:57
23 continual -- there's continual attention and 14:48:01
24 scrutiny being given to Mallinckrodt's 14:48:02
25 suspicious order monitoring system? 14:48:05

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1 MR. O'CONNOR: Objection to 14:48:07
2 form. 14:48:08
3 THE WITNESS: So all suspicious 14:48:08
4 order monitoring systems, not 14:48:14
5 necessarily unique to Mallinckrodt, 14:48:15
6 yes. 14:48:16
7 QUESTIONS BY MR. KO: 14:48:16
8 Q. Right. Right. 14:48:16
9 So as a general matter in 2009, 14:48:17
10 would you agree with the statement that 14:48:19
11 suspicious order monitoring continued to be 14:48:22
12 given close scrutiny by the DEA? 14:48:25
13 A. Yes. 14:48:27
14 Q. Okay. And the question is 14:48:28
15 asked, "Are there any plans for DEA to 14:48:31
16 publicize information to implement?" 14:48:35
17 Do you see that? 14:48:37
18 A. Yes. 14:48:38
19 Q. "SOM incorporate algorithms 14:48:39
20 where products are more likely to be 14:48:43
21 diverted." 14:48:45
22 Did I read that correctly as 14:48:47
23 well? 14:48:48
24 A. You did. 14:48:48
25 Q. Okay. And there is a response 14:48:50

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1 given by someone at DEA, it appears. 14:48:51
2 Do you see that? 14:48:54
3 A. Yes. 14:48:54
4 Q. And that's Jim Crawford. 14:48:55
5 Did you know who he has? 14:48:57
6 A. Yes. 14:48:59
7 Q. Okay. Did you communicate with 14:49:00
8 him at all during the 2008, 2012 time period? 14:49:01
9 A. No. 14:49:04
10 Q. Okay. But you just knew -- you 14:49:05
11 just knew who he was, but you didn't 14:49:08
12 necessarily communicate with him? 14:49:10
13 A. Correct. He and Mark Caverly 14:49:11
14 spoke at the end of every Buzzeo conference. 14:49:15
15 Q. Got it. 14:49:16
16 And it's -- he says in response 14:49:17
17 to this question, quote, "Whatever we put out 14:49:20
18 will be outdated by the time we put it out. 14:49:24
19 You're looking at a number. Tell me how much 14:49:27
20 that we can exceed. DEA can't do that. It's 14:49:30
21 part of your due diligence, knowing your 14:49:33
22 customer," end quote. 14:49:37
23 Did I read that correctly? 14:49:38
24 A. Yes. 14:49:39
25 Q. Okay. So this appears to be 14:49:39

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1 some Q&As in which -- there is a question in 14:49:41
2 which registrants are asking whether or not 14:49:44
3 DEA will give guidance on an appropriate 14:49:48
4 suspicious order monitoring algorithm. 14:49:54
5 Is that a fair characterization 14:49:55
6 of the question that was asked? 14:49:56
7 MR. O'CONNOR: Objection to 14:49:58
8 form. 14:49:58
9 THE WITNESS: Yes. 14:49:58
10 QUESTIONS BY MR. KO: 14:49:59
11 Q. And the response given was that 14:49:59
12 DEA was not going to provide such concrete 14:50:03
13 guidance; is that correct? 14:50:06
14 A. I'd like to reread the answer, 14:50:06
15 please. 14:50:10
16 Q. Sure. 14:50:10
17 A. Yes, that's the gist of the 14:50:11
18 response, yes. 14:50:19
19 Q. Okay. So as of the fall 14:50:20
20 of 2009, is it accurate to say that 14:50:22
21 Mr. Hunter informed you that the DEA was not 14:50:27
22 going to give concrete guidance as to what 14:50:31
23 particular algorithm to implement? 14:50:33
24 A. Yes. 14:50:35
25 Q. Okay. Now, the following 14:50:36

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1 question by someone in the audience was, 14:50:39
2 "Well, what then does the DEA expect?" 14:50:43
3 And a response was given by 14:50:45
4 Mr. Caverly. It says, quote, "Previously DEA 14:50:47
5 sat down with National Drug Association with 14:50:51
6 an algorithm. DEA standpoint: You know our 14:50:55
7 customers better than we do. DEA stepped 14:50:59
8 away from providing guidelines. It is not 14:51:01
9 going to happen," end quote. 14:51:04
10 Did I read that correctly? 14:51:06
11 A. Yes. 14:51:06
12 Q. So as of the date of this 14:51:07
13 e-mail in the fall of 2009, you understood 14:51:09
14 that the DEA was not going to provide 14:51:12
15 guidelines with respect to SOM algorithms, 14:51:15
16 correct? 14:51:18
17 A. Yes. 14:51:18
18 Q. You can set that aside. 14:51:25
19 MR. O'CONNOR: We've been going 14:51:29
20 about an hour 15. Maybe we should 14:51:30
21 take a break. 14:51:32
22 MR. KO: Yeah, we can take a 14:51:32
23 break. Sounds good. 14:51:34
24 VIDEOGRAPHER: We are going off 14:51:37
25 the record at 2:51 p m. 14:51:39

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1 (Off the record at 2:51 p.m.) 14:51:40
2 VIDEOGRAPHER: We are back on 15:10:02
3 the record at 3:10 p m. 15:10:03
4 QUESTIONS BY MR. KO: 15:10:05
5 Q. Now, Mr. Harper {sic}, is it 15:10:08
6 fair to say from the 2008 through 2009 time 15:10:10
7 period you are continually working to revise 15:10:16
8 and improve the enhanced suspicious order 15:10:17
9 monitoring system at Mallinckrodt, correct? 15:10:20
10 A. Correct. 15:10:22
11 Q. Okay. And you also continue to 15:10:22
12 work on peculiar order algorithms in the 2008 15:10:27
13 through 2009 time period, correct? 15:10:33
14 A. Correct. 15:10:34
15 Q. And with respect to the 15:10:34
16 checklists we were discussing previously, 15:10:36
17 you're continually working on revising and 15:10:38
18 implementing a -- both a new customer 15:10:41
19 checklist and a customer checklist throughout 15:10:45
20 the 2008 and 2009 time period, correct? 15:10:47
21 A. Correct. 15:10:49
22 (Mallinckrodt-Harper Exhibit 15 15:11:00
23 marked for identification.) 15:11:00
24 QUESTIONS BY MR. KO: 15:11:00
25 Q. Okay. I'm going to hand you a 15:11:01

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1 copy of what's going to be marked as Harper 15:11:02
2 Exhibit 15. And in conjunction with that, 15:11:06
3 I'm going to hand you also a document that's 15:11:13
4 previously been identified as Exhibit 35 of 15:11:14
5 the Stewart deposition. They're both right 15:11:16
6 here. 15:11:22
7 For the record, Harper 15:11:23
8 Exhibit 15 ends in Bates stamp 270090. 15:11:24
9 And of course the second 15:11:31
10 document I referenced was Stewart Exhibit 35 15:11:33
11 that ends in 477900. 15:11:37
12 Now, turning your attention 15:11:43
13 first to the e-mail identified as Harper 15:11:44
14 Exhibit 15, this is an e-mail exchange you 15:11:48
15 had with Eileen Spalding dated October 31, 15:11:53
16 2010, correct? 15:11:59
17 A. Correct. 15:11:59
18 Q. And earlier when I had -- just 15:12:00
19 a moment ago when we were discussing 15:12:05
20 continual revisions and enhancements to 15:12:06
21 Mallinckrodt's SOM program in the 2008 and 15:12:11
22 2009 time period, it's also safe to say that 15:12:14
23 in 2010 you're also continually working on 15:12:18
24 improving the SOM program, correct? 15:12:21
25 A. Correct. 15:12:22

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1	Q.	And in fact, that work	15:12:23	1	A.	"Basically, during the last two	15:14:06
2		continues in 2011 as well?	15:12:25	2		years, all peculiar orders that were on the	15:14:09
3	A.	Yes.	15:12:27	3		daily report were investigated by CSR	15:14:13
4	Q.	When would you say you actually	15:12:28	4		manager, were deemed to be okay, and none	15:14:18
5		implemented a procedure or an SOM policy that	15:12:31	5		rose to the level of peculiar. As you will	15:14:21
6		sufficiently addressed some of the concerns	15:12:37	6		see, it was not feasible to forward the	15:14:26
7		you raised in the 2008 time period with	15:12:41	7		peculiar order report to DEA due to the	15:14:28
8		respect to Mallinckrodt's SOM program?	15:12:43	8		lengthiness as we were tweaking the	15:14:34
9	MR. O'CONNOR:	Objection.	15:12:46	9		algorithms."	15:14:36
10	Form.		15:12:46	10	Q.	Okay. And in the e-mail above,	15:14:37
11	THE WITNESS:	I don't know the	15:12:46	11		you amend your statement about none rising to	15:14:40
12		first date of the publication. Again,	15:12:47	12		the level of peculiar. And what you actually	15:14:45
13		just as the program is constantly	15:12:50	13		meant was that no peculiar orders rose to the	15:14:47
14		being enhanced, we're constantly	15:12:53	14		level of suspicious; is that correct?	15:14:50
15		updating our procedure, so I don't	15:12:56	15	A.	That is correct.	15:14:52
16		have the date of the publication. I'm	15:12:57	16	Q.	So as of October 31, 2010, is	15:14:53
17		sorry.	15:12:58	17		it accurate to say that Mallinckrodt did not	15:14:59
18	QUESTIONS BY MR. KO:		15:12:58	18		identify a single suspicious order between	15:15:02
19	Q.	And is it -- do you have a	15:12:59	19		beginning of 2000 -- excuse me, between	15:15:07
20		general understanding of the approximate time	15:13:01	20		August of 2008 to October 31, 2010?	15:15:11
21		period of the date of publication?	15:13:03	21	MR. O'CONNOR:	Objection to	15:15:15
22		Do you recall whether or not it	15:13:04	22		form.	15:15:17
23		was after 2011?	15:13:05	23	THE WITNESS:	None that rose to	15:15:17
24	A.	I don't recall.	15:13:07	24		the level of suspicious and reported	15:15:19
25	Q.	Okay.	15:13:08	25		to DEA, that is correct.	15:15:22

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1	A.	I just don't know.	15:13:08	1	QUESTIONS BY MR. KO:		15:15:23
2	Q.	You remember a meeting you had	15:13:09	2	Q.	Right.	15:15:24
3		with DEA in 2011, often referred to as the	15:13:12	3		And so we had discussed earlier	15:15:24
4		earthquake meeting? Correct?	15:13:14	4		about the significant amount of diversion and	15:15:30
5	A.	Yes.	15:13:16	5		abuse of Mallinckrodt pills that occurred in	15:15:34
6	Q.	And it's referred to in that	15:13:17	6		Florida in the 2008 through 2012 time period.	15:15:36
7		manner because there was an earthquake that	15:13:18	7		Do you recall that?	15:15:38
8		day outside of DC, in Virginia in particular?	15:13:20	8	MR. O'CONNOR:	Objection.	15:15:38
9	A.	Yes.	15:13:23	9	THE WITNESS:	Significant is	15:15:39
10	Q.	As of the date of that meeting,	15:13:24	10		your word, but, yes, the diversion,	15:15:40
11		you had not yet adopted a formal procedure	15:13:28	11		yes.	15:15:42
12		for the enhanced SOM program, correct?	15:13:31	12	QUESTIONS BY MR. KO:		15:15:42
13	MR. O'CONNOR:	Objection to	15:13:34	13	Q.	You recall that we discussed	15:15:44
14		form.	15:13:35	14		diversion and abuse of Mallinckrodt pills	15:15:47
15	THE WITNESS:	I don't know what	15:13:35	15		occurring in Florida throughout the 2008	15:15:49
16		date we wrote the procedure, so I	15:13:36	16		through 2012 time period, correct?	15:15:51
17		can't make -- I cannot answer, I'm	15:13:38	17	A.	Yes.	15:15:53
18		sorry.	15:13:40	18	Q.	Okay. And during at least a	15:15:54
19	QUESTIONS BY MR. KO:		15:13:40	19		two-year time period between 2008 and 2010,	15:15:58
20	Q.	Fair enough. Okay.	15:13:40	20		Mallinckrodt's suspicious order monitoring	15:16:01
21		So turning back to this	15:13:42	21		policy and system did not identify a single	15:16:04
22		particular exhibit, in the second paragraph	15:13:46	22		suspicious order, correct?	15:16:07
23		of the bottom e-mail starting with	15:14:01	23	A.	Correct.	15:16:08
24		"Basically," can you read that for the	15:14:04	24	Q.	Okay. And in the third	15:16:10
25		record?	15:14:06	25		paragraph below in your e-mail you state,	15:16:13

<p style="text-align: right;">Page 306</p> <p>1 quote, "It is significant to note that 15:16:18 2 neither Sunrise or Harvard triggered the 15:16:21 3 algorithms that were in place for direct 15:16:23 4 customers because we were looking at overall 15:16:25 5 purchase trends for each distributor, not 15:16:26 6 reviewing where the distributors were sending 15:16:29 7 our product, and our program met CFR 15:16:31 8 requirements. In essence, the program was 15:16:37 9 expanded within the last month to our 15:16:41 10 customers' customers." 15:16:43 11 Did I read that correctly? 15:16:45 12 A. Yes. 15:16:45 13 Q. Now, Sunrise and Harvard were 15:16:46 14 two distributors that were customers of 15:16:48 15 Mallinckrodt, correct? 15:16:49 16 A. Correct. 15:16:50 17 Q. And they both had their license 15:16:50 18 eventually suspended by the DEA at some time 15:16:52 19 in the 2010 time period? 15:16:54 20 A. Correct. 15:16:56 21 Q. And so they had their licenses 15:16:57 22 suspended because they were selling to 15:17:01 23 customers, and in particular, pharmacies and 15:17:03 24 pain clinics that were engaged in 15:17:11 25 diversion -- 15:17:13</p>	<p style="text-align: right;">Page 308</p> <p>1 monitoring system did not trigger the 15:17:53 2 algorithms that were in place for that time 15:17:56 3 period. And I presume the algorithms you're 15:18:01 4 discussing are the peculiar order algorithms, 15:18:04 5 correct? 15:18:06 6 A. Correct. 15:18:06 7 Q. So in other words, because 15:18:07 8 their orders were not either 2X or 15:18:10 9 potentially 3X of the prior fiscal year, as 15:18:13 10 we previously discussed, there was never a 15:18:18 11 peculiar order flag that was raised with 15:18:23 12 respect to their orders -- 15:18:25 13 MR. O'CONNOR: Objection to 15:18:26 14 form. 15:18:27 15 QUESTIONS BY MR. KO: 15:18:27 16 Q. -- fair? 15:18:27 17 A. Fair. 15:18:27 18 Q. Okay. And you note that your 15:18:28 19 suspicious order monitoring system at the 15:18:32 20 time was unable to identify whether or not 15:18:33 21 certain of their orders were suspicious 15:18:37 22 because, of course, you just had a peculiar 15:18:39 23 order algorithm that was based on a metric of 15:18:43 24 orders relative to prior order history. 15:18:49 25 MR. O'CONNOR: Objection to 15:18:52</p>
<p style="text-align: right;">Page 307</p> <p>1 MR. O'CONNOR: Objection to 15:17:13 2 form. 15:17:13 3 QUESTIONS BY MR. KO: 15:17:13 4 Q. -- correct? 15:17:14 5 A. That is what was reported in 15:17:14 6 the media, yes. 15:17:17 7 Q. Okay. And was it -- and in 15:17:18 8 addition to what was reported in the media, 15:17:20 9 you eventually acquired some level of 15:17:22 10 knowledge of certain orders that Sunrise and 15:17:24 11 Harvard had shipped to pharmacies and clinics 15:17:28 12 in Florida, did you not? 15:17:31 13 MR. O'CONNOR: Objection to 15:17:33 14 form. 15:17:33 15 THE WITNESS: Yes. 15:17:33 16 QUESTIONS BY MR. KO: 15:17:33 17 Q. Okay. And so ultimately 15:17:34 18 Sunrise and Harvard had their license 15:17:36 19 suspended by the DEA due to suspicious orders 15:17:38 20 that they had shipped in at least the 2008 15:17:41 21 through 2000 {sic} time period; is that 15:17:46 22 correct? 15:17:48 23 A. Yes. 15:17:48 24 Q. Okay. And here you're 15:17:49 25 indicating that your suspicious order 15:17:50</p>	<p style="text-align: right;">Page 309</p> <p>1 form. 15:18:53 2 THE WITNESS: So enabling is 15:18:53 3 paraphrasing, but we were looking at 15:18:56 4 different purchasing trends and not at 15:19:01 5 the downstream registrant. 15:19:05 6 QUESTIONS BY MR. KO: 15:19:07 7 Q. Right. 15:19:07 8 And I didn't say -- just so the 15:19:08 9 record is clear, I didn't say "enable"; I 15:19:09 10 said "unable." 15:19:12 11 A. Unable, yes. 15:19:12 12 Q. Right. 15:19:13 13 So Mallinckrodt's suspicious 15:19:14 14 order monitoring program at the time was 15:19:15 15 unable to identify any suspicious orders of 15:19:17 16 Sunrise or Harvard because you were merely 15:19:23 17 looking at a numerical metric of order 15:19:26 18 history -- of orders relative to order 15:19:31 19 history of Sunrise and Harvard, correct? 15:19:33 20 MR. O'CONNOR: Objection. 15:19:35 21 Form. 15:19:36 22 THE WITNESS: Correct. 15:19:37 23 QUESTIONS BY MR. KO: 15:19:37 24 Q. Okay. At the time that you 15:19:45 25 learned that Sunrise and Harvard had their 15:19:45</p>

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1 licenses suspended by the DEA, did that 15:19:48
2 concern you? 15:19:50
3 A. Yes. 15:19:50
4 Q. Okay. And it also -- and it 15:19:50
5 concerned you because you had been unable to 15:19:52
6 detect the fact that they actually had 15:19:56
7 shipped many suspicious orders, according to 15:19:58
8 the DEA, prior to 2010, correct? 15:20:00
9 MR. O'CONNOR: Objection to 15:20:01
10 form. 15:20:02
11 THE WITNESS: It concerned me 15:20:02
12 because they were direct customers of 15:20:05
13 Mallinckrodt. 15:20:06
14 QUESTIONS BY MR. KO: 15:20:07
15 Q. Okay. And they were direct 15:20:07
16 customers of Mallinckrodt that had 15:20:09
17 Mallinckrodt pills sold to pharmacies and 15:20:12
18 clinics -- strike that. 15:20:16
19 When you say it concerned you 15:20:22
20 because they were direct customers of 15:20:27
21 Mallinckrodt, is it also accurate to say that 15:20:28
22 you were concerned because Mallinckrodt pills 15:20:30
23 may have been diverted or abused as a result 15:20:37
24 of shipments made by Sunrise and Harvard? 15:20:40
25 MR. O'CONNOR: Objection to 15:20:42

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1 form. 15:20:43
2 THE WITNESS: Yes. 15:20:44
3 QUESTIONS BY MR. KO: 15:20:46
4 Q. Okay. Now, I want to turn to 15:20:47
5 the -- you can keep the e-mail in front of 15:20:49
6 you if you'd like, but this document which is 15:20:53
7 Exhibit 35, that appears to be a chronology 15:20:58
8 of the suspicious order monitoring program 15:21:03
9 from August 2008 through 2010; is that 15:21:05
10 correct? 15:21:08
11 A. That is correct. 15:21:08
12 Q. And it's specifically a 15:21:08
13 chronology of the SOM program regarding 15:21:12
14 Mallinckrodt's dosage products during that 15:21:14
15 time period, correct? 15:21:17
16 A. Correct. 15:21:17
17 Q. And in Exhibit 15, you 15:21:18
18 reference to Ms. Spaulding a chronology, a 15:21:22
19 lengthy chronology, to try and get her up to 15:21:25
20 speed on what has occurred with respect to 15:21:28
21 Mallinckrodt's SOM program. 15:21:30
22 Do you see a reference to that? 15:21:32
23 It'll be at the -- 15:21:38
24 A. Yes, yes, I do. 15:21:39
25 Q. Do you recall whether or not 15:21:41

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1 this chronology is the chronology that you 15:21:41
2 conveyed to Ms. Spaulding? 15:21:44
3 A. Yes, I believe it is. 15:21:47
4 Q. Okay. And does the 15:21:48
5 chronology -- indicates that in the fall 15:22:04
6 of 2008 -- well, first of all, there's a 15:22:07
7 reference made at the top of the page to an 15:22:09
8 old version that was being sent to DEA 15:22:11
9 Albany. 15:22:15
10 Do you see that? 15:22:16
11 A. Yes, I do. 15:22:16
12 Q. And in your chronology you 15:22:16
13 indicate, quote, "This reporting system was 15:22:22
14 discontinued at the direction of suspicious 15:22:24
15 order monitoring team pending new order 15:22:27
16 algorithms that the SOM team was working to 15:22:30
17 establish." 15:22:32
18 Did I read that correctly? 15:22:33
19 A. Yes. 15:22:33
20 Q. So, again, in the fall of 2008, 15:22:35
21 you are continually working on revising the 15:22:37
22 SOM program, correct? 15:22:40
23 A. Correct. 15:22:41
24 Q. And you had abandoned a 15:22:42
25 reporting system that was in place to send 15:22:45

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1 reports to DEA Albany as of this date, 15:22:49
2 correct? 15:22:52
3 A. Yes. 15:22:52
4 Q. Okay. Turning to the next 15:22:54
5 page, there's an indication on February 16, 15:23:11
6 2009, that "SOM draft procedure sent to legal 15:23:18
7 department for further review relative to new 15:23:22
8 tasks being created as part of the revised 15:23:29
9 program." 15:23:31
10 Do you see that? 15:23:31
11 A. Yes. 15:23:31
12 Q. So legal played a part in the 15:23:31
13 review of the SOM draft procedures and the 15:23:33
14 ultimate implementation of the revised SOM 15:23:36
15 program; is that fair to say? 15:23:39
16 A. Yes. 15:23:40
17 Q. Okay. And do you recall 15:23:40
18 working with Mr. Lohman and Ms. Duft in 15:23:41
19 connection with implementation of the revised 15:23:45
20 SOM program? 15:23:47
21 A. Yes. 15:23:48
22 Q. Is it fair to say that they 15:23:48
23 had -- in addition to working with them, is 15:23:54
24 it fair to say that they had -- or how would 15:23:56
25 you describe their involvement in the 15:24:01

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1 implementation of the revised SOM program? 15:24:02

2 MR. O'CONNOR: I'm just going 15:24:05

3 to remind the witness not to get into 15:24:06

4 any specific communications with 15:24:07

5 counsel. 15:24:08

6 THE WITNESS: They were 15:24:09

7 contributors and reviewers in terms of 15:24:13

8 the current system set of enhancements 15:24:15

9 that we were working on. 15:24:17

10 QUESTIONS BY MR. KO: 15:24:18

11 Q. Sure. 15:24:18

12 And do you recall how 15:24:18

13 frequently you communicated with them during 15:24:22

14 this time period? 15:24:24

15 A. I do not. 15:24:25

16 Q. Okay. Do you recall whether or 15:24:26

17 not it was monthly communications with them 15:24:27

18 or weekly communications? 15:24:30

19 A. I do not. 15:24:32

20 Q. Relative to other people that 15:24:33

21 you had worked with in connection with 15:24:35

22 revising the SOM policy, do you have any 15:24:36

23 understanding of whether or not their 15:24:40

24 involvement was higher or lower than, for 15:24:42

25 example, your interactions with Mr. Ratliff 15:24:47

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1 in the security department? 15:24:49

2 MR. O'CONNOR: Objection to 15:24:53

3 form. 15:24:53

4 THE WITNESS: I'm sorry, I 15:24:53

5 thought you were talking about legal. 15:24:54

6 QUESTIONS BY MR. KO: 15:24:55

7 Q. I am. And I'm just trying to 15:24:55

8 get an understanding -- 15:24:57

9 A. Okay. 15:24:57

10 Q. Because since you can't 15:24:59

11 necessarily recall how involved they were, 15:25:01

12 I'm just trying to get an understanding of 15:25:03

13 perhaps seeing if you knew how much they were 15:25:05

14 involved relative to other groups that were 15:25:07

15 part of the SOM team. 15:25:08

16 So it's fair to say that they 15:25:09

17 were part of the SOM -- legal was part of the 15:25:10

18 SOM team, correct? 15:25:13

19 A. Correct. 15:25:13

20 Q. And you had some interaction 15:25:14

21 with them in implementing an SOM program, 15:25:16

22 correct? 15:25:19

23 A. Correct. 15:25:19

24 Q. And would you say that that 15:25:20

25 involvement or interaction was more or less 15:25:22

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1 than the interaction you had with other 15:25:26

2 groups? 15:25:29

3 A. I don't know. I can't say. 15:25:30

4 Q. Okay. 15:25:33

5 A. I can't answer. 15:25:33

6 Q. Do you recall if you had any 15:25:33

7 kind of day-to-day communication with them? 15:25:35

8 A. I don't recall, but I do not 15:25:37

9 think so. 15:25:43

10 Q. Okay. Now, on the next -- 15:25:43

11 well, the next entry is redacted, but the 15:25:50

12 entry after that dated March 2, 2009, 15:25:52

13 indicates that "Mr. Rausch continues to work 15:25:54

14 with IS to define the criteria of what would 15:25:57

15 be peculiar -- what would be a peculiar order 15:25:59

16 and how to determine programmatic flags for 15:26:01

17 detection." 15:26:05

18 Did I read that correctly? 15:26:06

19 A. Yes, you did. 15:26:06

20 Q. Okay. And perhaps it might 15:26:09

21 mean to say problematic, but in any way, we 15:26:10

22 don't need to guess. 15:26:14

23 It's fair to say that as of 15:26:17

24 March 2, 2009, Jim Rausch is continuing to 15:26:19

25 try and define the criteria of what 15:26:24

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1 constitutes a peculiar order. 15:26:26

2 MR. O'CONNOR: Objection. 15:26:27

3 QUESTIONS BY MR. KO: 15:26:27

4 Q. Correct? 15:26:28

5 A. That is correct. 15:26:28

6 Q. And IS is information systems? 15:26:29

7 A. Yes, that's correct. 15:26:31

8 Q. And was there a point person 15:26:32

9 in -- at IS that you worked with or you knew 15:26:34

10 was part of the SOM team? 15:26:37

11 A. I don't know. 15:26:39

12 Q. Okay. Now, further down on 15:26:41

13 June 29, 2009, you indicate that "revised 15:26:48

14 questionnaire -- customer questionnaires are 15:26:54

15 submitted to legal that have been updated 15:26:56

16 based upon CSF focus group meetings Jim 15:26:58

17 Rausch and Cathy Stewart conducted with 15:27:02

18 CSRs." 15:27:04

19 Did I read that correctly? 15:27:05

20 A. Yes. 15:27:05

21 Q. So again, you're continually 15:27:06

22 working on the customer checklists or 15:27:07

23 questionnaires that will be submitted to 15:27:10

24 Mallinckrodt customers in connection with the 15:27:13

25 SOM program; fair to say? 15:27:15

<p style="text-align: right;">Page 318</p> <p>1 A. Yes. 15:27:17</p> <p>2 Q. Okay. And the -- by the way, 15:27:18</p> <p>3 in this chronology that you drafted, you 15:27:36</p> <p>4 represented to Eileen that this was an 15:27:40</p> <p>5 attempt by you to provide an extensive 15:27:44</p> <p>6 chronology on SOM activities during this 15:27:49</p> <p>7 two-year time period. 15:27:52</p> <p>8 Why were you providing this to 15:27:52</p> <p>9 her? 15:27:56</p> <p>10 A. I was assigned at the St. Louis 15:27:56</p> <p>11 plant, working in the plant during a work 15:27:57</p> <p>12 stoppage which had gone on for an extended 15:28:00</p> <p>13 period of time, months, and so I wanted to 15:28:04</p> <p>14 update Eileen on the status of the current 15:28:07</p> <p>15 system of enhancements. 15:28:10</p> <p>16 Q. Okay. And do you recall 15:28:11</p> <p>17 whether or not you may have provided this to 15:28:13</p> <p>18 her in preparation for any meetings that she 15:28:15</p> <p>19 was having with DEA? 15:28:18</p> <p>20 A. I don't recall. 15:28:19</p> <p>21 Q. Okay. And you did reference a 15:28:23</p> <p>22 work stoppage at Mallinckrodt. I understand 15:28:26</p> <p>23 that there was a strike by some employees at 15:28:29</p> <p>24 Covidien at the time. 15:28:31</p> <p>25 A. Is that referenced here? 15:28:31</p>	<p style="text-align: right;">Page 320</p> <p>1 report to Ms. Spaulding, do you? 15:29:25</p> <p>2 A. I do not. 15:29:26</p> <p>3 Q. Okay. And by the way, what was 15:29:29</p> <p>4 the approximate date of the strike? 15:29:30</p> <p>5 A. It was in 2010, and I believe 15:29:31</p> <p>6 it would have started in March or April 15:29:38</p> <p>7 because our union contract's due in March, 15:29:39</p> <p>8 but I think they had an extension until 15:29:43</p> <p>9 April. So I'm not -- around that time. 15:29:45</p> <p>10 Q. Okay. Great. 15:29:48</p> <p>11 And it lasted until May or June 15:29:49</p> <p>12 of 2010? 15:29:54</p> <p>13 A. Or longer. I can't -- 15:29:54</p> <p>14 Q. Sure. 15:29:57</p> <p>15 A. I can't remember when it was 15:29:57</p> <p>16 over. 15:29:58</p> <p>17 Q. Sure. 15:29:58</p> <p>18 Turn to page 4 of this report, 15:29:59</p> <p>19 this chronology. There's a reference made 15:30:02</p> <p>20 that on April 30, 2010, the peculiar order 15:30:11</p> <p>21 calculations changed from a 2X factor to a 3X 15:30:14</p> <p>22 factor. 15:30:18</p> <p>23 Do you see that reference? 15:30:20</p> <p>24 A. I do. 15:30:21</p> <p>25 Q. So if I understand correctly, 15:30:22</p>
<p style="text-align: right;">Page 319</p> <p>1 Q. I don't think it is. 15:28:33</p> <p>2 A. Okay. 15:28:34</p> <p>3 Q. Yeah, but -- 15:28:34</p> <p>4 A. All right. 15:28:34</p> <p>5 Q. -- just -- just generally there 15:28:35</p> <p>6 was -- 15:28:35</p> <p>7 A. Yes, you're correct. Yes. 15:28:35</p> <p>8 Q. There was a strike by Covidien 15:28:37</p> <p>9 employees in the 2010 time period. 15:28:39</p> <p>10 How long did that last? 15:28:41</p> <p>11 A. 17 weeks, I believe. 15:28:42</p> <p>12 Q. Okay. A fairly long strike. 15:28:51</p> <p>13 A. (Witness nods head.) 15:28:52</p> <p>14 Q. And during that time period, 15:28:53</p> <p>15 was there any work done on attempting to 15:28:54</p> <p>16 improve or revise the SOM process? 15:28:56</p> <p>17 A. Yes. 15:29:00</p> <p>18 Q. And who was that work done by? 15:29:01</p> <p>19 A. So the work was ongoing, with 15:29:03</p> <p>20 Jim Rausch working with IT on the algorithms, 15:29:06</p> <p>21 so other subcomponents of the team continued 15:29:10</p> <p>22 while I was away. 15:29:13</p> <p>23 Q. Okay. And with respect to this 15:29:15</p> <p>24 chronology, you have no reason to dispute the 15:29:17</p> <p>25 accuracy of any of these events that you 15:29:21</p>	<p style="text-align: right;">Page 321</p> <p>1 the peculiar order algorithm on April 30, 15:30:27</p> <p>2 2010, increased from 2X to 3X, correct? 15:30:30</p> <p>3 A. That's correct. 15:30:36</p> <p>4 Q. So in other words, as of April 15:30:36</p> <p>5 30, 2010, the algorithm that Mallinckrodt 15:30:38</p> <p>6 utilized to determine whether or not an order 15:30:42</p> <p>7 was suspicious was by determining whether an 15:30:44</p> <p>8 order was three times greater than the prior 15:30:50</p> <p>9 year average; is that accurate? 15:30:54</p> <p>10 A. Yes. 15:30:57</p> <p>11 Q. Okay. And this increase 15:30:58</p> <p>12 resulted for a variety of reasons, is my 15:31:04</p> <p>13 understanding, but is one of the reasons that 15:31:08</p> <p>14 you increased from 2X to 3X because the 15:31:11</p> <p>15 peculiar order report was too lengthy? 15:31:14</p> <p>16 MR. O'CONNOR: Objection to 15:31:18</p> <p>17 form. 15:31:19</p> <p>18 THE WITNESS: Yes. 15:31:20</p> <p>19 QUESTIONS BY MR. KO: 15:31:20</p> <p>20 Q. So it was creating an 15:31:21</p> <p>21 administrative burden because there were too 15:31:22</p> <p>22 many orders to review? 15:31:25</p> <p>23 MR. O'CONNOR: Objection to 15:31:26</p> <p>24 form. 15:31:27</p> <p>25 THE WITNESS: Yes. 15:31:27</p>

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1 QUESTIONS BY MR. KO: 15:31:29

2 Q. Okay. And so you and others 15:31:29

3 believed that increasing the peculiar order 15:31:33

4 algorithm to 3X would reduce the amount of 15:31:37

5 reports that were printed for the SOM team to 15:31:39

6 review, correct? 15:31:43

7 A. That's correct, and the hope 15:31:45

8 was that the truly -- the orders that needed 15:31:47

9 to be investigated further would then print 15:31:50

10 based upon this new change in the algorithm. 15:31:54

11 Q. Okay. And the increase from 2X 15:31:59

12 to 3X occurs during this time period -- well, 15:32:07

13 strike that. 15:32:10

14 I believe as of the date of -- 15:32:27

15 I know you don't recall when the actual 15:32:29

16 revised SOM policy was formalized, but at 15:32:32

17 least as of the date of this e-mail, 15:32:34

18 October 31, 2010, the revised SOM program had 15:32:36

19 yet to be formalized; is that correct? 15:32:38

20 MR. O'CONNOR: Objection. 15:32:40

21 Form. 15:32:41

22 THE WITNESS: So that 15:32:41

23 depends -- yes. In a final SOP, yes, 15:32:46

24 but I believe that we were updating 15:32:50

25 our work instructions or our 15:32:52

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1 procedures all the way along the line. 15:32:53

2 But, yes, finalized, signed, sealed, 15:32:56

3 yes, it was not at that time. 15:32:59

4 QUESTIONS BY MR. KO: 15:33:00

5 Q. And when we talk about the 15:33:00

6 final SOP or SOM procedure, this was a formal 15:33:01

7 document which lays out the criteria for 15:33:04

8 identifying a suspicious order, correct? 15:33:07

9 A. Correct. 15:33:10

10 Q. And so at the time -- as of 15:33:11

11 October 31, 2010, a final SOM procedure that 15:33:13

12 outlines the criteria for identifying a 15:33:19

13 suspicious order had not yet been finalized, 15:33:22

14 correct? 15:33:25

15 A. So does this -- oh, that -- 15:33:25

16 yes, that's correct based upon this e-mail, 15:33:30

17 yes. 15:33:32

18 Q. Okay. I'm going to hand you a 15:33:47

19 copy of what will be marked as Harper 15:33:49

20 Exhibit 16. 15:33:50

21 A. May I put these aside? 15:33:51

22 Q. Yes, you may. 15:33:52

23 A. All right. 15:33:54

24 Q. Actually, I lied. It won't be 15:33:54

25 Exhibit 16. It's previously been marked as 15:34:02

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1 Exhibit 33 to the Stewart deposition. 15:34:04

2 MR. KO: And for the record, it 15:34:15

3 ends in Bates 279975. 15:34:11

4 QUESTIONS BY MR. KO: 15:34:11

5 Q. And this appears to be an 15:34:22

6 e-mail exchange between you and Ms. Stewart. 15:34:23

7 Do you see that? 15:34:25

8 A. Yes. 15:34:26

9 Q. And I just have a couple 15:34:26

10 questions on this. 15:34:28

11 Ms. Stewart asks on Monday, 15:34:32

12 August 9, 2010, quote, "How's progress on the 15:34:36

13 revised suspicious order monitoring program 15:34:43

14 going?" end quote. 15:34:44

15 Did I read that correctly? 15:34:47

16 A. Yes. 15:34:48

17 Q. Okay. And your response -- you 15:34:48

18 respond several things, but your response to 15:34:53

19 this question is, quote, "We had a meeting 15:34:54

20 last week that could only be classified as a 15:34:57

21 train wreck, but the effort will continue and 15:35:00

22 I will not be discouraged. I will not be 15:35:02

23 discouraged. I will not be discouraged." 15:35:38

24 Did I read that correctly? 15:35:07

25 A. Yes. 15:35:07

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1 Q. Okay. So fair to say that as 15:35:08

2 of August 9, 2010, at least with respect to 15:35:11

3 the meeting you had on the revised SOM 15:35:14

4 program, you believed that the meeting was a 15:35:16

5 train wreck, correct? 15:35:19

6 A. That particular meeting, but I 15:35:21

7 don't remember what the meeting was, and it's 15:35:23

8 an inartful term on my part. But, yes, 15:35:24

9 that's what the e-mail says. 15:35:29

10 Q. And you have no reason to doubt 15:35:30

11 that you sent this e-mail to Ms. Stewart? 15:35:32

12 A. I don't. 15:35:34

13 Q. Okay. Were you frustrated at 15:35:35

14 the time in August of 2010 with how the 15:35:39

15 revised suspicious order monitoring program 15:35:42

16 was going? 15:35:44

17 A. I would like -- I would like to 15:35:44

18 read this whole e-mail, please, for context, 15:35:51

19 because it appears to be talking about 15:35:53

20 exports, import permits and letters of 15:35:56

21 non-reexport. 15:35:59

22 So we've switched the 15:36:00

23 conversation to SOM, but I don't see that on 15:36:01

24 this page. 15:36:04

25 Q. Sure. Sure. 15:36:05

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<p>1 So I guess -- I'll just ask you 15:36:05</p> <p>2 a question to save time. 15:36:08</p> <p>3 Ms. Stewart clearly asks you 15:36:10</p> <p>4 whether -- how progress on the revised 15:36:12</p> <p>5 suspicious order monitoring program is going, 15:36:16</p> <p>6 correct? 15:36:17</p> <p>7 A. Yes. 15:36:17</p> <p>8 Q. And separate and apart -- 15:36:17</p> <p>9 separate and apart from what you responded to 15:36:18</p> <p>10 her, however inartful that was, my question 15:36:22</p> <p>11 to you is: Do you recall in the 2010 time 15:36:25</p> <p>12 period being frustrated at the progress of 15:36:29</p> <p>13 the revised SOM policy at Mallinckrodt? 15:36:32</p> <p>14 A. Yes. 15:36:35</p> <p>15 Q. Okay. And as of August 2010, 15:36:40</p> <p>16 this is about two and a half years after you 15:36:55</p> <p>17 first identify SOM as being an elevated 15:36:58</p> <p>18 priority for you; is that fair to say? 15:37:01</p> <p>19 A. Yes. 15:37:03</p> <p>20 (Mallinckrodt-Harper Exhibit 16 15:37:07</p> <p>21 marked for identification.) 15:37:07</p> <p>22 QUESTIONS BY MR. KO: 15:37:07</p> <p>23 Q. Okay. I'm going to hand you a 15:37:07</p> <p>24 copy of what's going to now be marked as -- 15:37:08</p> <p>25 you can set that aside. 15:37:11</p>	<p>1 group decided that the actual day-to-day 15:38:28</p> <p>2 monitoring responsibility should be switched 15:38:31</p> <p>3 to a non-customer service function in that 15:38:32</p> <p>4 those that have responsibility to manage the 15:38:38</p> <p>5 orders have a conflict of interest in 15:38:40</p> <p>6 deciding which orders should ultimately be 15:38:42</p> <p>7 shipped, with the ultimate right -- with 15:38:46</p> <p>8 ultimate right of refusal retained by the 15:38:50</p> <p>9 controlled substances compliance group." 15:38:55</p> <p>10 Q. Okay. Thank you for that. 15:38:56</p> <p>11 So is it accurate to say that 15:38:57</p> <p>12 one of the things that came out of this 15:39:00</p> <p>13 conference call regarding Mallinckrodt's then 15:39:03</p> <p>14 existing SOM procedure was that you were 15:39:05</p> <p>15 attempting to shift the day-to-day monitoring 15:39:09</p> <p>16 responsibility of particular orders to a 15:39:12</p> <p>17 non-customer service function? 15:39:19</p> <p>18 A. That is correct. 15:39:20</p> <p>19 Q. Okay. And earlier we had 15:39:21</p> <p>20 discussed about -- earlier we had discussed 15:39:27</p> <p>21 the fact that certain salespeople did not 15:39:29</p> <p>22 have day-to-day monitoring responsibilities 15:39:32</p> <p>23 with respect to SOM. 15:39:34</p> <p>24 Does this change your testimony 15:39:36</p> <p>25 at all or refresh your recollection at all 15:39:38</p>
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<p>1 A. All right. 15:37:12</p> <p>2 Q. This is a copy of Harper 15:37:13</p> <p>3 Exhibit 16. And for the record, it ends in 15:37:20</p> <p>4 Bates 280260. 15:37:25</p> <p>5 And this is an e-mail exchange 15:37:37</p> <p>6 between, again, you and Ms. Spaulding dated 15:37:38</p> <p>7 September 24, 2010? 15:37:44</p> <p>8 A. Correct, yes. 15:37:45</p> <p>9 Q. And Ms. Spaulding asks at the 15:37:46</p> <p>10 bottom how a conference call on SOM went. 15:37:54</p> <p>11 Do you see that? 15:37:59</p> <p>12 A. Uh-huh. I do. 15:38:00</p> <p>13 Q. And you respond, and I'd ask 15:38:01</p> <p>14 that you read the first full sentence at the 15:38:05</p> <p>15 top of your e-mail. 15:38:11</p> <p>16 A. "Interesting, the group 15:38:12</p> <p>17 decided" -- 15:38:15</p> <p>18 Q. I'm sorry, just I guess -- 15:38:15</p> <p>19 A. Oh, I beg your pardon. 15:38:17</p> <p>20 Q. Yeah, I guess "pretty well" is 15:38:19</p> <p>21 the first sentence. Just so just start 15:38:20</p> <p>22 reading from "pretty well." 15:38:23</p> <p>23 A. Oh, I'm sorry. 15:38:25</p> <p>24 Q. That's okay. 15:38:25</p> <p>25 A. "Pretty well. Interesting, the 15:38:26</p>	<p>1 that at one point in time NAMs and/or 15:39:40</p> <p>2 customer service representatives did, indeed, 15:39:44</p> <p>3 have day-to-day monitoring responsibilities 15:39:49</p> <p>4 with respect to Mallinckrodt's suspicious 15:39:50</p> <p>5 order monitoring program? 15:39:53</p> <p>6 MR. O'CONNOR: Objection to 15:39:53</p> <p>7 form. 15:39:54</p> <p>8 THE WITNESS: So I'd like to 15:39:54</p> <p>9 clarify, please. 15:39:54</p> <p>10 When we talk about commercial 15:39:55</p> <p>11 group, that's the NAMs. 15:39:56</p> <p>12 Customer service is not called 15:39:58</p> <p>13 commercial group, unless I 15:40:00</p> <p>14 inadvertently referred to them as that 15:40:01</p> <p>15 here. They've never been part -- 15:40:04</p> <p>16 even -- it seems like they would be 15:40:07</p> <p>17 commercial. They are not commercial 15:40:09</p> <p>18 group. 15:40:10</p> <p>19 So this is talking about switch 15:40:12</p> <p>20 from a non-customer service function. 15:40:13</p> <p>21 QUESTIONS BY MR. KO: 15:40:15</p> <p>22 Q. Okay. So are you referring 15:40:16</p> <p>23 here to CSRs or NAMs? 15:40:17</p> <p>24 A. CSRs. 15:40:20</p> <p>25 Q. Okay. So then prior to the 15:40:21</p>

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1 date of this e-mail, it would be accurate to 15:40:25	1 A. Yes, except Jane Williams was 15:42:19
2 say that CSRs had actual day-to-day 15:40:27	2 vice president. And she was in charge of the 15:42:22
3 monitoring responsibilities with respect to 15:40:30	3 NAMs but not a NAM herself. 15:42:24
4 Mallinckrodt's SOM program? 15:40:31	4 Q. Right. Thank you for the 15:42:26
5 A. So I'd like to clarify. It was 15:40:33	5 clarification. 15:42:27
6 Jim Rausch in particular who was the manager 15:40:34	6 So during the two -- would it 15:42:27
7 of C -- customer service. 15:40:36	7 be accurate to say that during the 2005 15:42:30
8 Q. Okay. So what you're saying 15:40:39	8 through 2017 time period you interacted with 15:42:35
9 then through this e-mail is that you wanted 15:40:41	9 about four NAMs? 15:42:37
10 to remove Jim Rausch from the day-to-day 15:40:45	10 A. So there was also -- Bonnie New 15:42:39
11 monitoring of Mallinckrodt's SOM program? 15:40:48	11 is another. There was a gentleman who -- a 15:42:46
12 A. The group decided that, yes. 15:40:50	12 name Dave Irwin. Again, people transitioned 15:42:51
13 Q. Okay. And did you in fact 15:40:52	13 roles over time, and, I'm sorry, I cannot say 15:42:53
14 implement this policy change? 15:40:53	14 that at one certain time frame which NAMs I 15:42:54
15 A. Yes. 15:40:55	15 interacted with. 15:42:57
16 Q. Okay. Now, I know that you're 15:40:55	16 Q. Sure. And I'm just trying to 15:42:57
17 not referring to NAMs here, but would you 15:41:11	17 get a general understanding. 15:42:59
18 agree with me that -- well, first of all, let 15:41:15	18 A. Okay. 15:43:00
19 me back up. 15:41:19	19 Q. So approximately four to five 15:43:01
20 Do you have any understanding 15:41:19	20 NAMs that you interacted with in connection 15:43:02
21 of how many national account managers there 15:41:20	21 with your -- in connection with your 15:43:04
22 were at Mallinckrodt? 15:41:23	22 responsibilities in designing, implementing, 15:43:08
23 A. I do not. 15:41:24	23 an SOM program, correct? 15:43:09
24 Q. Okay. Does the number four 15:41:25	24 A. I'll agree with approximately, 15:43:11
25 sound accurate to you? 15:41:29	25 yes. 15:43:13
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1 A. It's possible. I just don't -- 15:41:30	1 Q. Okay. And despite not knowing 15:43:13
2 I don't know. 15:41:32	2 exactly how much NAMs made, was it your 15:43:24
3 Q. Okay. Would you -- if I 15:41:33	3 understanding that NAMs were compensated 15:43:26
4 represented to you, and assuming that I could 15:41:38	4 based on the amount of customers that they 15:43:27
5 prove at trial that there were approximately 15:41:40	5 had? 15:43:32
6 eight national account managers at 15:41:42	6 A. No, I didn't -- I didn't know. 15:43:32
7 Mallinckrodt during the 2005 through 2015 15:41:44	7 Q. You had no understanding? 15:43:34
8 time period, does that -- is that consistent 15:41:48	8 A. Right. 15:43:35
9 with your understanding? 15:41:49	9 Q. Okay. To the extent they were 15:43:36
10 MR. O'CONNOR: Object to form. 15:41:51	10 compensated based on the volume of pills 15:43:40
11 THE WITNESS: I just don't know 15:41:52	11 purchased by their customers, would you agree 15:43:46
12 who the NAMs were at any particular 15:41:55	12 that that would be a conflict of interest -- 15:43:48
13 time or assigned to which product 15:41:57	13 MR. O'CONNOR: Object to form. 15:43:51
14 line. 15:41:59	14 QUESTIONS BY MR. KO: 15:43:51
15 QUESTIONS BY MR. KO: 15:42:00	15 Q. -- to the extent they were 15:43:51
16 Q. Sure. 15:42:00	16 involved in the SOM monitoring process? 15:43:52
17 But you interacted with many of 15:42:00	17 MR. O'CONNOR: Same objection. 15:43:54
18 the NAMs, correct? 15:42:03	18 THE WITNESS: So I'm sorry, are 15:43:54
19 A. Correct. 15:42:04	19 we making the -- the inferential leap 15:43:55
20 Q. And how many NAMs did you 15:42:05	20 that they were definitely -- because I 15:43:59
21 interact with? 15:42:06	21 don't know about their compensation, 15:44:01
22 A. Four to six, I'm guesstimating. 15:42:06	22 if it was dollars, pills, accounts, 15:44:01
23 Q. And among those were Victor 15:42:13	23 regions. I don't know that. 15:44:04
24 Borelli, Steve Becker and Jane Williams, 15:42:16	24 QUESTIONS BY MR. KO: 15:44:05
25 correct? 15:42:19	25 Q. Sure. 15:44:06

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1	Assuming that NAMs were paid 15:44:06	1	conflict of interest that would apply with 15:46:13
2	based on volume of pills sold, at least in 15:44:09	2	respect to a national account manager? 15:46:15
3	part -- 15:44:11	3	MR. O'CONNOR: Object to form. 15:46:16
4	A. Okay. 15:44:11	4	THE WITNESS: So it doesn't, 15:46:17
5	Q. -- were paid based on the 15:44:13	5	because neither of them, neither the 15:46:18
6	amount of pills that they were able to sell 15:44:14	6	NAMs or customer service, were -- 15:46:20
7	to a particular customer, would you agree 15:44:16	7	after this, they were not directly 15:46:26
8	that that would be a conflict of interest to 15:44:18	8	responsible for the day-to-day 15:46:28
9	have them involved in evaluating whether or 15:44:21	9	monitoring. They were consulted or 15:46:29
10	not an order was suspicious? 15:44:23	10	rose situations to our attention. 15:46:31
11	MR. O'CONNOR: Object to form. 15:44:24	11	QUESTIONS BY MR. KO: 15:46:33
12	THE WITNESS: No. 15:44:25	12	Q. I understand that that was 15:46:34
13	QUESTIONS BY MR. KO: 15:44:26	13	the -- what happened after this e-mail, or 15:46:34
14	Q. Okay. And going back to the 15:44:26	14	that change was attempted to be made. But 15:46:37
15	e-mail that's in front of you and -- you 15:44:41	15	prior to the date of this, you are 15:46:40
16	indicate that at least from this meeting it 15:44:45	16	indicating, are you not, in this e-mail that 15:46:46
17	was agreed that customer service 15:44:51	17	a conflict of interest exists with respect to 15:46:47
18	representatives would no longer be involved 15:44:56	18	the customer service group? 15:46:49
19	in the day-to-day monitoring because of 15:44:58	19	A. It does state -- yes, it does 15:46:51
20	their -- because of a conflict of interest. 15:45:00	20	state that. 15:46:59
21	MR. O'CONNOR: Object to form. 15:45:02	21	Q. And you said also that national 15:46:59
22	QUESTIONS BY MR. KO: 15:45:03	22	account managers have involvement in -- in 15:47:01
23	Q. Do you see it? 15:45:05	23	Mallinckrodt customers as well, right? 15:47:04
24	A. Yes. Yes, I do see that. Yes. 15:45:06	24	A. Correct. 15:47:06
25	Q. And what is the conflict of 15:45:09	25	Q. And that approximately four to 15:47:07
Page 335		Page 337	
1	interest that you're referring to there? 15:45:10	1	eight national account managers that 15:47:11
2	A. It's a -- you know, it's just a 15:45:11	2	Mallinckrodt had, they were in charge of 15:47:12
3	conglomeration of even though customer 15:45:12	3	wholesale distributors that Mallinckrodt 15:47:15
4	service is separate from the NAMs and 15:45:16	4	supplied drugs to, correct? 15:47:18
5	separate from commercial, customer service 15:45:20	5	MR. O'CONNOR: Object to form. 15:47:20
6	does maintain a relationship with the 15:45:22	6	THE WITNESS: Correct. 15:47:20
7	customers. And so that's the basis on which 15:45:24	7	QUESTIONS BY MR. KO: 15:47:21
8	this statement was made. 15:45:26	8	Q. And so the -- do you believe 15:47:22
9	Q. Well, how -- how was it any 15:45:28	9	that a conflict of interest exists with 15:47:28
10	different -- how was the conflict of interest 15:45:34	10	respect to a national account manager's 15:47:32
11	that applies with respect to the customer 15:45:36	11	involvement in the suspicious order 15:47:34
12	service group any different than a conflict 15:45:38	12	monitoring program given that their -- 15:47:36
13	of interest that would apply with respect to 15:45:40	13	assuming this was true -- given that their 15:47:40
14	the national account managers? 15:45:43	14	primary form of compensation was the amount 15:47:44
15	A. So customer service group 15:45:44	15	of pills they were able to sell -- 15:47:47
16	maintained the relationship with the 15:45:51	16	MR. O'CONNOR: Object to form. 15:47:49
17	customer, as did the NAMs. 15:45:53	17	QUESTIONS BY MR. KO: 15:47:49
18	Could you repeat that question, 15:45:55	18	Q. -- to a particular Mallinckrodt 15:47:50
19	please? I'm getting mixed up as I'm thinking 15:45:56	19	customer? 15:47:52
20	of my answer. I'm sorry. 15:46:01	20	MR. O'CONNOR: Objection. 15:47:52
21	Q. Sure. 15:46:03	21	THE WITNESS: No, I do not. 15:47:53
22	How was the conflict of 15:46:03	22	QUESTIONS BY MR. KO: 15:47:54
23	interest that applies with the customer 15:46:04	23	Q. Okay. It's okay to say no. 15:47:54
24	service group that you're referring to in 15:46:07	24	A. Oh, I'm sorry. I'm sorry. 15:48:06
25	this e-mail differ in any way from the 15:46:10	25	Q. No, don't be sorry. 15:48:09

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<p>1 Here's -- 15:48:09</p> <p>2 A. That was for emphasis. 15:48:09</p> <p>3 Q. I want to hand you a copy of 15:48:10</p> <p>4 what's going to be -- what has previously 15:48:11</p> <p>5 been marked -- you can set that aside -- 15:48:12</p> <p>6 what's previously been marked as Exhibit 44 15:48:17</p> <p>7 of the Stewart deposition. 15:48:19</p> <p>8 MR. KO: And for the record, 15:48:20</p> <p>9 it's dated -- or sorry, that's -- ends 15:48:22</p> <p>10 in Bates 3028219. 15:48:25</p> <p>11 QUESTIONS BY MR. KO: 15:48:25</p> <p>12 Q. And before turning to the text 15:48:32</p> <p>13 of this document, Mr. -- as we discussed 15:48:33</p> <p>14 before, Mr. Borelli is a national account 15:48:37</p> <p>15 manager, correct? 15:48:40</p> <p>16 A. Yes. 15:48:40</p> <p>17 Q. Okay. And he was a national 15:48:41</p> <p>18 account manager in charge of certain 15:48:44</p> <p>19 distributors that Mallinckrodt shipped pills 15:48:45</p> <p>20 to, correct? 15:48:47</p> <p>21 A. Yes. 15:48:48</p> <p>22 Q. And the context of this e-mail, 15:48:49</p> <p>23 or the subject, is Sunrise Wholesale, 15:48:56</p> <p>24 correct? 15:48:57</p> <p>25 A. Yes. 15:48:58</p>	<p>1 involvement in the suspicious order 15:49:49</p> <p>2 monitoring program, did he not? 15:49:51</p> <p>3 A. To the extent that we would 15:49:52</p> <p>4 occasionally ask the NAMs questions after the 15:49:58</p> <p>5 algorithm indicated an order was for further 15:50:01</p> <p>6 review, yes, that's correct. 15:50:03</p> <p>7 Q. So were there instances in 15:50:03</p> <p>8 which Mr. Borelli cleared -- or concluded 15:50:04</p> <p>9 that a peculiar order was not suspicious and 15:50:11</p> <p>10 relayed that information to you? 15:50:14</p> <p>11 MR. O'CONNOR: Object to form. 15:50:15</p> <p>12 THE WITNESS: Yes. 15:50:16</p> <p>13 QUESTIONS BY MR. KO: 15:50:17</p> <p>14 Q. Okay. And the date of this 15:50:18</p> <p>15 e-mail is May 20, 2008, correct? 15:50:18</p> <p>16 A. Yes. 15:50:21</p> <p>17 Q. This is simultaneous to when 15:50:21</p> <p>18 you are first starting to revamp your -- the 15:50:26</p> <p>19 revised SOM program, correct? 15:50:31</p> <p>20 A. Yes. 15:50:32</p> <p>21 Q. And you learned Mr. Borelli -- 15:50:32</p> <p>22 you learned from Ms. Stewart that all the 15:50:34</p> <p>23 customer service reps all state that 15:50:36</p> <p>24 Mr. Borelli will tell them anything they want 15:50:38</p> <p>25 to hear just so he can get the sale, correct? 15:50:40</p>
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<p>1 Q. And as we discussed before, 15:48:58</p> <p>2 Sunrise had its license revoked by the DEA in 15:48:59</p> <p>3 2010 as a result of suspicious orders they 15:49:02</p> <p>4 were shipping to Florida, correct? 15:49:05</p> <p>5 MR. O'CONNOR: Object to form. 15:49:07</p> <p>6 THE WITNESS: Yes. 15:49:08</p> <p>7 QUESTIONS BY MR. KO: 15:49:09</p> <p>8 Q. Okay. And Sunrise was a 15:49:09</p> <p>9 customer, again, of Mallinckrodt? 15:49:11</p> <p>10 A. Yes. 15:49:13</p> <p>11 Q. And is it your understanding 15:49:14</p> <p>12 that Mr. Borelli was in charge of the Sunrise 15:49:17</p> <p>13 account? 15:49:24</p> <p>14 A. Yes. 15:49:24</p> <p>15 Q. Okay. And Ms. Stewart 15:49:24</p> <p>16 indicates some language to you about 15:49:27</p> <p>17 Mr. Borelli and indicates that the e-mail 15:49:31</p> <p>18 importance is high. 15:49:34</p> <p>19 She says quote, "FYI, the 15:49:35</p> <p>20 customer service reps all state that Victor 15:49:38</p> <p>21 will tell them anything they want to hear 15:49:41</p> <p>22 just so he can get the sale," end quote. 15:49:42</p> <p>23 Did I read that correctly? 15:49:46</p> <p>24 A. You did. 15:49:46</p> <p>25 Q. Okay. And Mr. Borelli had 15:49:47</p>	<p>1 A. Yes, I see that that's printed 15:50:44</p> <p>2 in the e-mail, yes, sir. 15:50:46</p> <p>3 Q. Okay. So given that 15:50:47</p> <p>4 Mr. Borelli has an incentive to obtain as 15:50:51</p> <p>5 many sales as possible, is it still your 15:50:54</p> <p>6 testimony that you believe it's not a 15:50:57</p> <p>7 conflict of interest for him to be involved 15:50:58</p> <p>8 in the evaluation of a peculiar order? 15:51:00</p> <p>9 MR. O'CONNOR: Object to form. 15:51:02</p> <p>10 THE WITNESS: Yes. Yes. 15:51:03</p> <p>11 QUESTIONS BY MR. KO: 15:51:03</p> <p>12 Q. By the way, how many times did 15:51:04</p> <p>13 Mr. Borelli confirm that an order was 15:51:05</p> <p>14 actually suspicious? 15:51:08</p> <p>15 A. I don't know. 15:51:10</p> <p>16 Q. Well, you had previously -- we 15:51:16</p> <p>17 had previously discussed an e-mail in which 15:51:18</p> <p>18 you told Ms. Spaulding that no orders rose to 15:51:19</p> <p>19 the level of suspicious in the 2008 to 2000 15:51:24</p> <p>20 {sic} time period -- 15:51:26</p> <p>21 A. Okay. 15:51:27</p> <p>22 Q. -- correct? 15:51:28</p> <p>23 A. Uh-huh. 15:51:28</p> <p>24 Q. So I take it that Mr. Borelli 15:51:29</p> <p>25 never, ever identified a peculiar order as 15:51:33</p>

<p style="text-align: right;">Page 342</p> <p>1 being suspicious; is that accurate? 15:51:35</p> <p>2 MR. O'CONNOR: Object to form. 15:51:37</p> <p>3 THE WITNESS: Yes. 15:51:38</p> <p>4 QUESTIONS BY MR. KO: 15:51:39</p> <p>5 Q. And the same would be true with 15:51:39</p> <p>6 respect to Ms. New and Mr. Becker, correct? 15:51:41</p> <p>7 A. Yes. Yes, I'm following you, 15:51:43</p> <p>8 yes. 15:51:44</p> <p>9 Q. Yeah. 15:51:44</p> <p>10 So to the extent that 15:51:44</p> <p>11 Mr. Becker or Ms. New evaluated whether or 15:51:46</p> <p>12 not a peculiar order was suspicious, they 15:51:50</p> <p>13 never, in fact, reported that such an order 15:51:52</p> <p>14 was suspicious to you, correct? 15:51:57</p> <p>15 A. Correct. 15:51:58</p> <p>16 Q. Okay. Oh, and with respect 15:51:59</p> <p>17 to -- so in addition to Ms. New, Mr. Becker 15:52:17</p> <p>18 and Mr. Borelli, were there any other NAMs 15:52:22</p> <p>19 during the 2008 to 2000 {sic} time period 15:52:25</p> <p>20 that informed you that a peculiar order 15:52:30</p> <p>21 should rise to the level of a suspicious 15:52:33</p> <p>22 order? 15:52:35</p> <p>23 A. Tim Berry was a NAM for the 15:52:35</p> <p>24 generics group at one point, and Dave Irwin, 15:52:38</p> <p>25 but I just don't remember specifically 15:52:42</p>	<p style="text-align: right;">Page 344</p> <p>1 license renewal, the question whether our 15:54:10</p> <p>2 customers monitor their customers was removed 15:54:12</p> <p>3 from the questionnaire by the Mallinckrodt 15:54:14</p> <p>4 suspicious order monitoring team because 15:54:16</p> <p>5 there is no actual regulatory obligation to 15:54:19</p> <p>6 monitor customers' customers." 15:54:23</p> <p>7 Did I read that correctly with 15:54:25</p> <p>8 the exception of the insertion "is"? 15:54:26</p> <p>9 A. Yes. 15:54:30</p> <p>10 Q. Okay. And so at -- is it safe 15:54:30</p> <p>11 to say that prior to -- at some point prior 15:54:33</p> <p>12 to August 26, 2010, in your customer 15:54:35</p> <p>13 checklist you had a question of whether or 15:54:40</p> <p>14 not your customers monitor their customers? 15:54:43</p> <p>15 Correct? 15:54:50</p> <p>16 A. Yes. 15:54:50</p> <p>17 Q. But you removed that question 15:54:51</p> <p>18 from the questionnaire, correct? 15:54:53</p> <p>19 A. Yes. 15:54:53</p> <p>20 Q. Set that aside. 15:54:54</p> <p>21 A. All right. 15:54:54</p> <p>22 Q. Did you believe that removing 15:55:10</p> <p>23 that question from your questionnaire was an 15:55:10</p> <p>24 enhancement of your SOM program? 15:55:12</p> <p>25 A. I don't think it was not, so 15:55:15</p>
<p style="text-align: right;">Page 343</p> <p>1 conferring with them in terms of an order 15:52:43</p> <p>2 that required further review. 15:52:46</p> <p>3 Q. Okay. As you sit -- well, 15:52:48</p> <p>4 again, based on your representation to 15:52:52</p> <p>5 Ms. Spaulding that there were no suspicious 15:52:54</p> <p>6 orders as of October 31, 2010, is it fair to 15:52:57</p> <p>7 say that no national account manager ever 15:53:00</p> <p>8 reported to you that a peculiar order should 15:53:03</p> <p>9 rise to the level of being a suspicious 15:53:05</p> <p>10 order? 15:53:08</p> <p>11 A. Yes. 15:53:08</p> <p>12 (Mallinckrodt-Harper Exhibit 17 15:53:08</p> <p>13 marked for identification.) 15:53:08</p> <p>14 QUESTIONS BY MR. KO: 15:53:09</p> <p>15 Q. Okay. I want to turn to a copy 15:53:09</p> <p>16 of what will be marked as exhibit -- Harper 15:53:15</p> <p>17 Exhibit 17. 15:53:19</p> <p>18 And for the record, this 15:53:34</p> <p>19 document is -- ends in Bates stamp 368390. 15:53:35</p> <p>20 In an August 26, 2010 e-mail 15:53:50</p> <p>21 from you to others, you state, "Ginger and 15:53:54</p> <p>22 Kate," is the first page, "Although we 15:54:00</p> <p>23 require direct customers to submit a 15:54:04</p> <p>24 suspicious order monitoring customer 15:54:06</p> <p>25 questionnaire with proof of their annual DEA 15:54:07</p>	<p style="text-align: right;">Page 345</p> <p>1 that's a double negative. I don't think it 15:55:17</p> <p>2 was to the detriment of the program. 15:55:21</p> <p>3 Q. Okay. So you don't regret 15:55:23</p> <p>4 removing that question from your 15:55:25</p> <p>5 questionnaire? 15:55:26</p> <p>6 A. No. 15:55:27</p> <p>7 Q. Okay. And that's 15:55:28</p> <p>8 notwithstanding the fact that you did receive 15:55:30</p> <p>9 guidance from the DEA that they expected you 15:55:33</p> <p>10 to monitor your customer's customer, correct? 15:55:35</p> <p>11 MR. O'CONNOR: Object to form. 15:55:37</p> <p>12 THE WITNESS: Correct. 15:55:39</p> <p>13 QUESTIONS BY MR. KO: 15:55:39</p> <p>14 Q. Okay. So you received guidance 15:55:40</p> <p>15 from the DEA that it was important for 15:55:42</p> <p>16 Mallinckrodt to know your customer's 15:55:46</p> <p>17 customer, yet you removed that question from 15:55:48</p> <p>18 your questionnaire; is that accurate? 15:55:50</p> <p>19 MR. O'CONNOR: Object to form. 15:55:53</p> <p>20 THE WITNESS: Yes. 15:55:53</p> <p>21 May I add, please? 15:55:54</p> <p>22 QUESTIONS BY MR. KO: 15:55:55</p> <p>23 Q. This is a yes or no question. 15:55:56</p> <p>24 That's all I needed. 15:55:57</p> <p>25 A. All right. 15:55:58</p>

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1 Q. Counsel can -- has the 15:55:59
2 opportunity to do some redirect if he would 15:56:01
3 like. 15:56:02
4 A. Okay. Thank you. 15:56:03
5 (Mallinckrodt-Harper Exhibit 18 15:56:07
6 marked for identification.) 15:56:08
7 QUESTIONS BY MR. KO: 15:56:08
8 Q. I'm going to hand you a copy of 15:56:08
9 what's going to be marked as Harper 15:56:09
10 Exhibit 18. 15:56:12
11 And for the record, this 15:56:21
12 document ends in Bates 279142. 15:56:22
13 This is an April 29, 2010 15:56:28
14 e-mail you send to Ms. Spaulding regarding 15:56:32
15 suspicious order monitoring. 15:56:36
16 You state, quote, "We have 15:56:38
17 working algorithms, and J. Rausch has been 15:56:43
18 reviewing peculiar orders for several weeks. 15:56:46
19 I have a meeting with Jim tomorrow because 15:56:48
20 the review is taking several hours a day, yet 15:56:50
21 still results in him making a judgment call 15:56:53
22 that he is not comfortable with. Bottom line 15:56:55
23 is that tomorrow I plan on having something 15:56:59
24 for you to give DEA. Trying desperately to 15:57:01
25 clear up all loose ends before the potential 15:57:04

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1 work stoppage." 15:57:06
2 Did I read that correctly? 15:57:07
3 A. Yes. 15:57:08
4 Q. Okay. And is it accurate to 15:57:09
5 say that as of April 29, 2010, it's your 15:57:12
6 understanding that Mr. Rausch is still making 15:57:16
7 judgment calls on peculiar orders that he is 15:57:19
8 not comfortable with? 15:57:21
9 A. Yes. 15:57:22
10 Q. Okay. You can set that aside. 15:57:23
11 Now, as we discussed, in 15:57:25
12 addition to algorithms, you had checklists 15:57:34
13 that you were working on at the same time 15:57:38
14 with respect to new and current customers, 15:57:39
15 correct? 15:57:41
16 A. Correct. 15:57:41
17 (Mallinckrodt-Harper Exhibit 19 15:57:48
18 marked for identification.) 15:57:48
19 QUESTIONS BY MR. KO: 15:57:48
20 Q. I'm going to hand you a copy of 15:57:48
21 what's going to be marked as Harper 15:57:49
22 Exhibit 19, and it ends in Bates 301020. 15:57:51
23 And this is a July 22, 2009 15:57:58
24 e-mail from Ms. Stewart to many people, 15:58:00
25 including you, regarding the customer 15:58:02

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1 checklist. 15:58:05
2 Is that accurate? 15:58:10
3 A. Yes, it is, yes. 15:58:11
4 Q. And she indicates that you left 15:58:12
5 a message regarding a customer checklist, 15:58:16
6 correct? 15:58:19
7 A. Yes. I just had to figure out 15:58:19
8 who was leaving the message. Yes. Yes. 15:58:24
9 Q. Sure. 15:58:26
10 And Ms. Stewart seems to be 15:58:26
11 referencing some failures on the customer 15:58:28
12 checklist that seemed to be the result of 15:58:31
13 confusion as it relates to the form itself. 15:58:35
14 Do you see that reference? 15:58:39
15 A. Yes. 15:58:40
16 Q. So at the time of this e-mail, 15:58:42
17 there was certainly some confusion with 15:58:44
18 respect to the questionnaire that you were 15:58:46
19 trying to roll out in 2009, correct? 15:58:47
20 A. Yes. 15:58:49
21 Q. And Ms. Stewart indicates that 15:58:49
22 she's actually putting customers that have 15:58:51
23 been put on hold as a result of this customer 15:58:54
24 checklist, and she's actually recommending 15:58:57
25 that they be taken off. 15:59:01

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1 Is that consistent with how 15:59:03
2 this e-mail reads? 15:59:05
3 MR. O'CONNOR: Object to form. 15:59:06
4 THE WITNESS: Yes. 15:59:06
5 QUESTIONS BY MR. KO: 15:59:09
6 Q. So in other words, while there 15:59:09
7 was confusion surrounding this particular 15:59:10
8 version of the customer checklist, for any 15:59:13
9 customers that were put on hold at that time, 15:59:18
10 she had recommended putting them off of hold 15:59:19
11 and releasing orders; is that correct? 15:59:22
12 A. Yes. 15:59:25
13 MR. O'CONNOR: Object to form. 15:59:26
14 QUESTIONS BY MR. KO: 15:59:27
15 Q. You can set that one aside. 15:59:28
16 (Mallinckrodt-Harper Exhibit 20 15:59:37
17 marked for identification.) 15:59:37
18 QUESTIONS BY MR. KO: 15:59:37
19 Q. I'm going to hand you a copy of 15:59:38
20 what's going to be marked as Harper 15:59:39
21 Exhibit 20. 15:59:40
22 For the record, this ends in 15:59:42
23 Bates stamp 372333. 15:59:44
24 And this is an e-mail exchange 15:59:50
25 that you are having with Ms. Spaulding in 15:59:52

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1 the -- on February 11, 2011; is that 15:59:56
2 accurate? 15:59:59
3 A. Yes. 16:00:00
4 Q. Okay. And I want to focus on 16:00:05
5 the second e-mail down in the chain that you 16:00:09
6 draft to Ms. Spaulding regarding the customer 16:00:13
7 checklist. 16:00:20
8 Do you see where you have 16:00:21
9 indicated that you have discovered a 16:00:23
10 disconnect in the system? 16:00:25
11 A. I do. 16:00:26
12 Q. And you're talking about the 16:00:27
13 system of the customer checklist, correct? 16:00:28
14 A. Yes. 16:00:30
15 Q. And you indicate that, quote, 16:00:31
16 "We have significant gaps in that although 16:00:35
17 CDIG send out the annual update SOM customer 16:00:40
18 checklist, when the system indicates customer 16:00:44
19 account DEA registration is nearing renewal 16:00:48
20 time, they do nothing if the SOM customer 16:00:51
21 checklist is not ever returned by the 16:00:54
22 customer." 16:00:56
23 Did I read that correctly? 16:00:57
24 A. Yes. 16:00:57
25 Q. Okay. And CDIG basically -- 16:00:59

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1 CDIG stands for customer data integrity 16:01:03
2 group, correct? 16:01:06
3 A. Correct. 16:01:07
4 Q. And they had some involvement 16:01:07
5 in the SOM procedure, in particular the 16:01:08
6 customer checklist, correct? 16:01:11
7 A. Yes. 16:01:12
8 Q. But if I understand this e-mail 16:01:13
9 correctly, is it accurate to say that as of 16:01:16
10 February of 2011 you were -- you discovered 16:01:19
11 that all SOM customer checklists were not 16:01:24
12 actually being returned by the customers, 16:01:28
13 correct? 16:01:30
14 MR. O'CONNOR: Object to form. 16:01:30
15 THE WITNESS: Yes. 16:01:31
16 QUESTIONS BY MR. KO: 16:01:31
17 Q. You would agree that this is a 16:01:32
18 significant gap in the review system, would 16:01:33
19 you not? 16:01:36
20 A. It's a gap -- yes. In this 16:01:37
21 component of the review system, yes, it is a 16:01:41
22 gap. 16:01:43
23 Q. Because you relied on the 16:01:43
24 customer checklist to obtain information from 16:01:44
25 the customer, correct? 16:01:47

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1 A. Yes. 16:01:47
2 Q. And in some instances, you 16:01:48
3 never actually in fact received the 16:01:50
4 checklist, correct? 16:01:53
5 A. I believe this says during the 16:01:53
6 renewal. 16:01:56
7 Q. Yeah. 16:01:58
8 During the renewal time period, 16:01:59
9 CDIG does nothing if the SOM customer 16:02:01
10 checklist is ever returned; is that correct? 16:02:05
11 A. So customers would have sent in 16:02:07
12 an initial checklist, but then this is the 16:02:13
13 annual update that they may not have turned 16:02:17
14 in, and CDIG may not have caught that fact, 16:02:19
15 yes. 16:02:20
16 Q. All right. So they may have 16:02:20
17 turned in a checklist at one point in time, 16:02:21
18 but the requirement and the expectation 16:02:24
19 certainly was that they would turn in at 16:02:26
20 least an annual checklist as well, correct? 16:02:27
21 MR. O'CONNOR: Object to form. 16:02:30
22 THE WITNESS: Yes. 16:02:30
23 QUESTIONS BY MR. KO: 16:02:31
24 Q. And that wasn't always 16:02:31
25 happening as of 2011, correct? 16:02:32

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1 A. Correct. 16:02:33
2 Q. And so would you say that -- 16:02:34
3 we'll move on. You can set that aside. 16:02:42
4 Thank you. 16:02:44
5 Now, earlier we were discussing 16:02:53
6 chargebacks. 16:02:55
7 Do you recall that? 16:02:55
8 A. Yes. 16:02:56
9 Q. Do you remember when you first 16:02:57
10 started looking into utilization of 16:03:01
11 chargebacks -- or chargeback data to 16:03:04
12 understand the details of where your pills, 16:03:09
13 Mallinckrodt pills, were going? 16:03:12
14 MR. O'CONNOR: Object to form. 16:03:13
15 THE WITNESS: Yes. 16:03:14
16 QUESTIONS BY MR. KO: 16:03:15
17 Q. And when was that? 16:03:15
18 A. I believe it was within the 16:03:16
19 scope of our involvement in the Sunrise 16:03:19
20 investigation. 16:03:23
21 Q. Okay. And that was in the 2009 16:03:23
22 time period? 16:03:26
23 A. I don't remember the -- I'm 16:03:27
24 terrible with my years. I'm sorry, I don't 16:03:29
25 remember. 16:03:33

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1 (Mallinckrodt-Harper Exhibit 21 16:03:33
 2 marked for identification.) 16:03:34
 3 QUESTIONS BY MR. KO: 16:03:34
 4 Q. Okay. I'm going to hand you a 16:03:34
 5 copy of what's going to be marked as Harper 16:03:35
 6 Exhibit 21. 16:03:37
 7 A. Okay. 16:03:39
 8 Q. And this is an e-mail chain 16:03:39
 9 involving you, among other people, in the 16:03:58
 10 April 17, 2007 time period; is that accurate? 16:04:03
 11 A. Yes. 16:04:06
 12 Q. And I don't believe I 16:04:08
 13 identified this document, but it ends in 16:04:09
 14 Bates 7728295. 16:04:14
 15 Starting with the second to the 16:04:17
 16 last e-mail at the bottom of this chain from 16:04:31
 17 Vince Kaiman to Jeff Burd in which you are 16:04:33
 18 cc'd, as of 2:47 -- let's start there. 16:04:38
 19 First of all, who's Vince 16:04:43
 20 Kaiman? 16:04:45
 21 A. He was director or vice 16:04:45
 22 president of commercial group at that time. 16:04:48
 23 Q. Okay. And he is inquiring in 16:04:53
 24 an e-mail exchange with Jeff Burd whether or 16:04:57
 25 not Jeff can also find out of the 16:05:02

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1 40-milligram sales into the channel, how much 16:05:06
 2 of it ends up in clinics. 16:05:08
 3 Do you see that portion of the 16:05:13
 4 e-mail I'm referencing? 16:05:14
 5 A. Yes. 16:05:15
 6 Q. So in other words, Vince is 16:05:18
 7 asking -- and the 40-milligram sales is a 16:05:20
 8 reference to the methadone 40 milligrams, 16:05:22
 9 correct? 16:05:24
 10 A. Yes. 16:05:25
 11 Q. Manufactured by Mallinckrodt? 16:05:25
 12 A. Yes. 16:05:27
 13 Q. And he is trying to determine 16:05:28
 14 where those Mallinckrodt pills ends up in 16:05:31
 15 clinics. 16:05:37
 16 Is that a fair characterization 16:05:37
 17 of the question he's asking Jeff? 16:05:39
 18 MR. O'CONNOR: Object to form. 16:05:41
 19 THE WITNESS: It's how many end 16:05:41
 20 up in clinics versus retail. 16:05:43
 21 QUESTIONS BY MR. KO: 16:05:46
 22 Q. Okay. And there's some 16:05:47
 23 discussion back and forth about how one might 16:05:52
 24 go about doing that, but Vince at some point 16:05:55
 25 in the e-mail chain says, "Would chargebacks 16:05:58

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1 help?" 16:06:03
 2 Do you see that? 16:06:07
 3 A. Yes. 16:06:07
 4 Q. Okay. And Mr. Burd's response 16:06:07
 5 is, "Okay, I'll start to look into it. Yeah, 16:06:12
 6 it would be through chargebacks." 16:06:16
 7 Do you see that portion of the 16:06:18
 8 e-mail? 16:06:20
 9 A. I do. 16:06:20
 10 Q. So is it fair to say that this 16:06:20
 11 e-mail chain reflects an understanding by 16:06:22
 12 Mallinckrodt employees that they could 16:06:27
 13 utilize chargebacks to understand where 16:06:30
 14 Mallinckrodt-manufactured pills were ending 16:06:32
 15 up? 16:06:36
 16 A. Yes. 16:06:36
 17 Q. And the date of this e-mail is 16:06:36
 18 April 17, 2007, correct? 16:06:38
 19 A. Correct. 16:06:39
 20 Q. And you were on this e-mail 16:06:40
 21 chain? 16:06:43
 22 A. Correct. 16:06:43
 23 Q. Okay. And I want to pay -- I 16:06:44
 24 want to turn your attention to the top of 16:06:52
 25 this e-mail in which Jeff Burd -- by the way, 16:06:54

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1 who is Jeff Burd? 16:06:58
 2 A. He was in commercial group, but 16:06:59
 3 I believe he was on the branded side. I 16:07:00
 4 didn't have any interaction with him. 16:07:02
 5 Q. Sure. 16:07:03
 6 And Mr. Burd, who appears was a 16:07:04
 7 senior marketing manager, he is -- he 16:07:08
 8 indicates that, "Well, we were able to get at 16:07:11
 9 this data quicker than I expected, with 16:07:14
 10 Kate's help." 16:07:17
 11 Do you see that? 16:07:18
 12 A. I do. 16:07:19
 13 Q. So is it a fair 16:07:19
 14 characterization of this e-mail that he was 16:07:21
 15 able to obtain the chargeback data a lot 16:07:22
 16 quicker than he had expected? 16:07:26
 17 MR. O'CONNOR: Object to form. 16:07:27
 18 THE WITNESS: Yes. 16:07:28
 19 QUESTIONS BY MR. KO: 16:07:28
 20 Q. Okay. And if you look at the 16:07:29
 21 timestamp, it looks like it takes him -- 16:07:30
 22 certainly the same day, but he responds 16:07:33
 23 within six hours of when he says he will look 16:07:35
 24 into it, correct? 16:07:39
 25 A. Yes. 16:07:40

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1 Q. So in a six-hour time period, 16:07:41
 2 is it accurate to say that a Mallinckrodt 16:07:45
 3 employee was able to utilize chargeback data 16:07:46
 4 to understand where Mallinckrodt products 16:07:50
 5 were ending up? 16:07:52
 6 MR. O'CONNOR: Object to form. 16:07:53
 7 THE WITNESS: Yes. 16:07:53
 8 QUESTIONS BY MR. KO: 16:07:55
 9 Q. Okay. And by the way, do 16:07:56
 10 you -- there's a reference here to Kate. It 16:08:00
 11 says that he's able to -- he was able to 16:08:04
 12 utilize Kate's help to get this data. 16:08:07
 13 Do you see that? 16:08:09
 14 A. Yes, I do. 16:08:09
 15 Q. And that was Kate Neely? 16:08:10
 16 A. Yes. Kate Muhlenkamp at the 16:08:12
 17 time, yes. 16:08:14
 18 Q. Right. 16:08:15
 19 A. Yes. 16:08:15
 20 Q. Thank you. 16:08:16
 21 (Mallinckrodt-Harper Exhibit 22 16:08:18
 22 marked for identification.) 16:08:18
 23 QUESTIONS BY MR. KO: 16:08:18
 24 Q. I'm going to hand you now a 16:08:26
 25 copy of what will be marked as Harper 16:08:28

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1 Exhibit 22. 16:08:31
 2 And we can go through this 16:08:37
 3 document and we can take a break. 16:08:38
 4 MR. O'CONNOR: Okay. 16:08:38
 5 QUESTIONS BY MR. KO: 16:08:38
 6 Q. If that doesn't -- or if you 16:08:42
 7 don't mind. 16:08:44
 8 A. That's acceptable, thank you, 16:08:45
 9 yes. 16:08:45
 10 Q. For the record, this e-mail 16:08:53
 11 exchange ends in Bates 500657. And this is 16:08:54
 12 an e-mail exchange from actually the 2009 to 16:08:59
 13 2010 time period. 16:09:04
 14 And the title of the e-mail is 16:09:08
 15 "Chargeback Information Request." 16:09:09
 16 Do you see that? 16:09:10
 17 A. Yes, but I see that it started 16:09:11
 18 in 2010, not in 2009. 16:09:14
 19 Q. And it's a little confusing 16:09:17
 20 because I think that's reference made to a 16:09:19
 21 subsequent e-mail. But if you look at the 16:09:22
 22 bottom of the second page, there is an e-mail 16:09:24
 23 from you to Tiffany Rowley dated November 19, 16:09:27
 24 2009. 16:09:33
 25 Do you see that? 16:09:33

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1 A. Oh, here. Yes. 16:09:33
 2 Q. Okay. Now, in that 16:09:41
 3 November 19, 2009 e-mail, you ask, among 16:09:45
 4 other things, to Tiffany, quote, "Is it 16:09:48
 5 feasible to run chargeback summary reports 16:09:53
 6 each time we receive information through the 16:09:55
 7 industry about DEA actions against pharmacies 16:09:57
 8 or physicians?" 16:09:59
 9 Did I read that correctly? 16:10:00
 10 A. Yes. 16:10:00
 11 Q. So is it fair to say that at 16:10:02
 12 least as of November 2000 -- fair to say that 16:10:04
 13 as of November 19, 2009, you're inquiring 16:10:11
 14 about how to utilize chargeback summary 16:10:15
 15 reports to determine where Mallinckrodt pills 16:10:18
 16 are ending up? 16:10:22
 17 MR. O'CONNOR: Object to form. 16:10:23
 18 THE WITNESS: Yes. 16:10:24
 19 QUESTIONS BY MR. KO: 16:10:24
 20 Q. Okay. And was this -- does 16:10:25
 21 this refresh your recollection at all that 16:10:28
 22 this was about the time you were -- you 16:10:32
 23 became interested in utilizing chargeback 16:10:34
 24 information consistent with the DEA 16:10:36
 25 investigation against Sunrise? 16:10:39

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1 MR. O'CONNOR: Object to form. 16:10:41
 2 THE WITNESS: No. 16:10:42
 3 QUESTIONS BY MR. KO: 16:10:44
 4 Q. Okay. 16:10:44
 5 A. Well, around the same time, 16:10:44
 6 but -- this is not speaking of that, but, 16:10:46
 7 yes, at the same time, yes, sir, sorry. 16:10:48
 8 Q. Yeah, I understand that this 16:10:50
 9 doesn't make any reference -- 16:10:51
 10 A. Okay. I apologize. Yes. 16:10:52
 11 Q. Yeah, that's okay. 16:10:54
 12 Around this time was when 16:10:54
 13 Sunrise -- you began looking into Sunrise as 16:10:56
 14 well, correct? 16:10:59
 15 A. Yes. 16:11:00
 16 Q. And you also were trying to 16:11:01
 17 pull chargeback data and chargeback 16:11:04
 18 information in connection with understanding 16:11:07
 19 where your pills ended up after distributing 16:11:09
 20 to Sunrise, correct? 16:11:13
 21 MR. O'CONNOR: Object to form. 16:11:14
 22 THE WITNESS: Yes. The company 16:11:15
 23 was. I -- yes, not me personally, 16:11:16
 24 yes. 16:11:18
 25

<p style="text-align: right;">Page 362</p> <p>1 QUESTIONS BY MR. KO: 16:11:18</p> <p>2 Q. But it was in connection with 16:11:20</p> <p>3 your obligations as the team leader of the 16:11:21</p> <p>4 suspicious order monitoring program -- 16:11:23</p> <p>5 A. Yes. 16:11:24</p> <p>6 Q. -- right? 16:11:24</p> <p>7 A. Yes. 16:11:25</p> <p>8 Q. Okay. Now, after you asked 16:11:25</p> <p>9 that question on November 19, 2009, 16:11:29</p> <p>10 Tiffany -- by the way, who is Tiffany Rowley 16:11:33</p> <p>11 Kilper? 16:11:37</p> <p>12 A. She -- she was with the 16:11:37</p> <p>13 contract group, contract administration, but 16:11:41</p> <p>14 I'm not certain of what her role entailed. 16:11:45</p> <p>15 Q. Okay. But she was someone who 16:11:48</p> <p>16 you consulted with to pull chargeback 16:11:50</p> <p>17 information, correct? 16:11:52</p> <p>18 A. Yes. 16:11:53</p> <p>19 Q. Okay. And she responds, "Sure, 16:11:57</p> <p>20 Karen, I can always provide that data." 16:12:02</p> <p>21 Do you see that? 16:12:05</p> <p>22 A. Yes. 16:12:05</p> <p>23 Q. And unfortunately, for this 16:12:08</p> <p>24 e-mail exchange there's no date that's 16:12:10</p> <p>25 indicated for that particular e-mail, but we 16:12:17</p>	<p style="text-align: right;">Page 364</p> <p>1 requests might be or how many end user 16:13:18</p> <p>2 inquiries per month, I can run this by my 16:13:21</p> <p>3 manager to ensure she agrees this fits our 16:13:24</p> <p>4 area. I just pull the data from Cognos. 16:13:26</p> <p>5 It's nothing complicated at all. I'd be 16:13:29</p> <p>6 happy to train someone in your group to do 16:13:31</p> <p>7 this if that makes more sense." 16:13:33</p> <p>8 Did I read that correctly? 16:13:35</p> <p>9 A. Yes. 16:13:35</p> <p>10 Q. So as of February 22, 2010, is 16:13:35</p> <p>11 it accurate to say that Mallinckrodt 16:13:43</p> <p>12 certainly has the ability to run chargeback 16:13:44</p> <p>13 information and chargeback data to determine 16:13:51</p> <p>14 where Mallinckrodt pills are going? 16:13:53</p> <p>15 MR. O'CONNOR: Object to form. 16:13:54</p> <p>16 THE WITNESS: Yes. 16:13:55</p> <p>17 QUESTIONS BY MR. KO: 16:13:55</p> <p>18 Q. Okay. And this request 16:13:55</p> <p>19 actually originated on November 19, 2009, as 16:13:56</p> <p>20 indicated by your original e-mail, correct? 16:14:04</p> <p>21 A. Yes. 16:14:06</p> <p>22 Q. And she's -- it's accurate to 16:14:08</p> <p>23 say that at least based on 16:14:11</p> <p>24 Ms. Rowley-Kilper's characterization, it's 16:14:16</p> <p>25 nothing complicated at all to pull this data, 16:14:17</p>
<p style="text-align: right;">Page 363</p> <p>1 can move up to your Monday, February 22, 2010 16:12:19</p> <p>2 e-mail. 16:12:22</p> <p>3 Do you see that? 16:12:23</p> <p>4 A. I do. 16:12:23</p> <p>5 Q. And you say, "Tiffany, we 16:12:24</p> <p>6 exchanged e-mails several months ago about 16:12:27</p> <p>7 running chargeback reports as a benefit to 16:12:28</p> <p>8 the business based upon information we 16:12:30</p> <p>9 receive regarding DEA actions against 16:12:33</p> <p>10 registrants and industry news." 16:12:35</p> <p>11 Did I read that correctly? 16:12:39</p> <p>12 A. Yes. 16:12:39</p> <p>13 Q. So for whatever reason, three 16:12:41</p> <p>14 months pass between when you first ask 16:12:45</p> <p>15 Ms. Kilper to identify and run certain 16:12:49</p> <p>16 requests with respect to chargeback 16:12:51</p> <p>17 information and when you follow up again with 16:12:53</p> <p>18 her about this request; is that accurate? 16:12:59</p> <p>19 A. Yes. 16:13:01</p> <p>20 Q. Okay. And then she responds 16:13:01</p> <p>21 that same day that -- with some questions, 16:13:03</p> <p>22 but ultimately she -- well, let me read it 16:13:10</p> <p>23 for you. 16:13:13</p> <p>24 She says, "Karen, if you could 16:13:14</p> <p>25 give me an estimate of how frequent the 16:13:17</p>	<p style="text-align: right;">Page 365</p> <p>1 correct? 16:14:20</p> <p>2 MR. O'CONNOR: Object to form. 16:14:20</p> <p>3 THE WITNESS: Correct. 16:14:21</p> <p>4 QUESTIONS BY MR. KO: 16:14:22</p> <p>5 Q. And she would be happy to train 16:14:22</p> <p>6 someone in your group to do it yourself? 16:14:24</p> <p>7 A. Correct. 16:14:25</p> <p>8 Q. Did you take her up on her 16:14:26</p> <p>9 offer? 16:14:27</p> <p>10 A. No. 16:14:28</p> <p>11 Q. Okay. Ms. Kilper always ran 16:14:28</p> <p>12 the chargeback reports, correct? 16:14:31</p> <p>13 MR. O'CONNOR: Object to form. 16:14:32</p> <p>14 THE WITNESS: Not always. 16:14:34</p> <p>15 QUESTIONS BY MR. KO: 16:14:34</p> <p>16 Q. Did you ever run a chargeback 16:14:35</p> <p>17 report? 16:14:36</p> <p>18 A. No. 16:14:36</p> <p>19 Q. You had some other people do 16:14:37</p> <p>20 it, correct? 16:14:38</p> <p>21 A. Yes. 16:14:38</p> <p>22 Q. And was there ever a time in 16:14:38</p> <p>23 which it was indicated to you that it would 16:14:41</p> <p>24 be difficult to pull this data? 16:14:44</p> <p>25 A. No. 16:14:47</p>

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1 Q. Okay. In fact, it was quite 16:14:49
 2 easy and they could -- whomever you directed 16:14:52
 3 would always comply with your request for 16:14:55
 4 this information, correct? 16:14:57
 5 MR. O'CONNOR: Object to form. 16:14:58
 6 THE WITNESS: Yes. Yes. 16:14:59
 7 QUESTIONS BY MR. KO: 16:14:59
 8 Q. Now, turning to the first page 16:15:00
 9 of this e-mail, you indicate -- sorry, not 16:15:03
 10 you, but Ms. Johnson, who appears to be a 16:15:09
 11 compliance assistant, she asks you whether or 16:15:12
 12 not anything has been figured out on the 16:15:16
 13 chargeback requests yet. 16:15:18
 14 Do you see that? 16:15:19
 15 A. Yes. 16:15:19
 16 Q. And that's dated March 8, 2010? 16:15:24
 17 A. Yes. 16:15:27
 18 Q. And it appears that there was 16:15:28
 19 no response by you until Tiffany asks whether 16:15:31
 20 or not something was in her court on this, 16:15:37
 21 because she never heard back in response to 16:15:40
 22 your questions. 16:15:42
 23 Do you see that? 16:15:43
 24 A. Yes. 16:15:44
 25 Q. Okay. And finally at the top 16:15:45

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1 of this e-mail, you indicate to Carrie that 16:15:48
 2 "I have the next steps on this. I'll discuss 16:15:51
 3 with you later this week. I am booked solid 16:15:53
 4 with meetings today. Thanks for following up 16:15:56
 5 to get your project going." 16:15:59
 6 Did I read that correctly? 16:16:02
 7 A. Yes. 16:16:02
 8 Q. Okay. So is it fair to say 16:16:02
 9 that there is a approximately four-month time 16:16:03
 10 period in which -- between when you first 16:16:05
 11 asked for this information and when action is 16:16:07
 12 actually taken on obtaining this chargeback 16:16:12
 13 information? 16:16:16
 14 A. Yes. 16:16:17
 15 Q. Okay. And of course it's clear 16:16:23
 16 from this e-mail exchange that the ball was 16:16:25
 17 in your court to respond to Carrie. 16:16:29
 18 And unfortunately I don't have 16:16:31
 19 any subsequent documentation of when, in 16:16:33
 20 fact, you responded, but at least four months 16:16:35
 21 go by between when you first ask and when you 16:16:37
 22 again follow up with Tiffany and Carrie on 16:16:40
 23 the chargeback data requests, correct? 16:16:43
 24 MR. O'CONNOR: Object to form. 16:16:45
 25 THE WITNESS: Yes. 16:16:45

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1 MR. KO: Why don't we take a 16:16:47
 2 break. 16:16:52
 3 MR. O'CONNOR: Sure. 16:16:53
 4 VIDEOGRAPHER: We are going off 16:16:54
 5 the record at 4:16 p m. 16:16:55
 6 (Off the record at 4:16 p.m.) 16:16:56
 7 VIDEOGRAPHER: We are back on 16:35:05
 8 the record at 4:35 p m. 16:35:06
 9 QUESTIONS BY MR. KO: 16:35:07
 10 Q. Welcome back, Ms. Harper. 16:35:08
 11 Thank you for your patience today. I 16:35:11
 12 appreciate your -- the time that you have 16:35:13
 13 spent, and we have, I think, a few more hours 16:35:14
 14 to go. 16:35:19
 15 So before we broke, we were 16:35:19
 16 talking about utilization of chargeback data. 16:35:22
 17 Do you recall that? 16:35:26
 18 A. Yes. 16:35:26
 19 Q. And -- 16:35:27
 20 MR. O'CONNOR: Can we go off 16:35:28
 21 the record for just a second to put 16:35:30
 22 the mic on? 16:35:31
 23 THE WITNESS: Oh, I'm sorry. 16:35:36
 24 QUESTIONS BY MR. KO: 16:35:38
 25 Q. So a moment ago we were talking 16:35:57

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1 about chargebacks, correct? 16:35:58
 2 A. Yes. 16:36:00
 3 Q. And was -- in the late 2009 16:36:00
 4 time period you had asked about whether or 16:36:05
 5 not someone could run certain chargeback data 16:36:09
 6 for you so that you could understand the 16:36:11
 7 details of a transaction in which 16:36:15
 8 Mallinckrodt was sending its pills to a 16:36:18
 9 particular distributor, correct? 16:36:22
 10 MR. O'CONNOR: Object to form. 16:36:23
 11 THE WITNESS: Yes. 16:36:23
 12 QUESTIONS BY MR. KO: 16:36:23
 13 Q. And specifically, was it your 16:36:24
 14 idea to take the information you learned -- 16:36:28
 15 well, strike that. 16:36:29
 16 One of the reasons for 16:36:34
 17 identifying -- or utilizing chargeback 16:36:38
 18 information was to take the information you 16:36:40
 19 received regarding certain DEA actions 16:36:46
 20 against registrants and industry news that 16:36:50
 21 you had acquired, correct? 16:36:52
 22 MR. O'CONNOR: Object to form. 16:36:53
 23 THE WITNESS: Yes. 16:36:54
 24 QUESTIONS BY MR. KO: 16:36:54
 25 Q. So the idea was to take that 16:36:54

<p style="text-align: right;">Page 370</p> <p>1 information regarding specific pharmacies and 16:36:59</p> <p>2 doctors and go into your data to determine 16:37:04</p> <p>3 whether or not Mallinckrodt was selling to 16:37:07</p> <p>4 these pharmacies or physicians, correct? 16:37:10</p> <p>5 MR. O'CONNOR: Object to form. 16:37:13</p> <p>6 THE WITNESS: Whether or not 16:37:13</p> <p>7 they were our -- they were downstream 16:37:15</p> <p>8 customers of the distributors of our 16:37:18</p> <p>9 product, yes. 16:37:20</p> <p>10 QUESTIONS BY MR. KO: 16:37:21</p> <p>11 Q. Right. 16:37:21</p> <p>12 So the idea -- 16:37:21</p> <p>13 A. Yes. 16:37:22</p> <p>14 Q. -- of -- one of the reasons for 16:37:22</p> <p>15 why you utilize chargeback information is to 16:37:26</p> <p>16 determine whether or not Mallinckrodt was 16:37:29</p> <p>17 selling to pharmacies or physicians that were 16:37:36</p> <p>18 customers of distributors that you sold to, 16:37:38</p> <p>19 correct? 16:37:40</p> <p>20 MR. O'CONNOR: Object to form. 16:37:41</p> <p>21 THE WITNESS: Yes. 16:37:42</p> <p>22 QUESTIONS BY MR. KO: 16:37:43</p> <p>23 Q. Okay. And the idea of using 16:37:48</p> <p>24 this chargeback information was also to make 16:37:49</p> <p>25 sure your customers/wholesale distributors 16:37:52</p>	<p style="text-align: right;">Page 372</p> <p>1 document ends in Bates 421850. 16:39:03</p> <p>2 And this is an e-mail chain 16:39:21</p> <p>3 from the July 21, 2000 time period regarding 16:39:23</p> <p>4 Mallinckrodt suspicious order monitoring and 16:39:29</p> <p>5 the Harvard Drug license suspension. 16:39:30</p> <p>6 Do you see that? 16:39:32</p> <p>7 A. I'm reading the e-mail, 16:39:33</p> <p>8 please -- 16:39:41</p> <p>9 Q. Sure. 16:39:41</p> <p>10 A. -- so that I can understand the 16:39:41</p> <p>11 whole context. 16:39:41</p> <p>12 Q. Absolutely. 16:39:41</p> <p>13 And my questions will relate to 16:40:02</p> <p>14 just the first page of this e-mail. 16:40:04</p> <p>15 A. All right. I'm ready. Thank 16:40:06</p> <p>16 you. 16:40:07</p> <p>17 Q. Okay. On July 21, 2010, 16:40:07</p> <p>18 Mr. Ratliff asks you whether or not, quote, 16:40:14</p> <p>19 "As an aside, are we capable of knowing our 16:40:19</p> <p>20 customers' customers with any specificity?" 16:40:22</p> <p>21 end quote. 16:40:27</p> <p>22 Did I read that correctly? 16:40:28</p> <p>23 A. Yes. 16:40:28</p> <p>24 Q. And you respond that same day 16:40:29</p> <p>25 that -- well, why don't you read the first 16:40:30</p>
<p style="text-align: right;">Page 371</p> <p>1 were not also selling Mallinckrodt drugs to 16:37:56</p> <p>2 these pharmacies or physicians, correct? 16:38:00</p> <p>3 A. Yes. 16:38:02</p> <p>4 Q. Okay. And again, you had this 16:38:03</p> <p>5 idea, or at least you discussed the 16:38:07</p> <p>6 possibility of obtaining this data, as of 16:38:11</p> <p>7 November 2009, correct? 16:38:14</p> <p>8 A. Yes. 16:38:15</p> <p>9 Q. And also turning back to some 16:38:17</p> <p>10 of the e-mails that we had discussed 16:38:20</p> <p>11 previously in 2007, you were -- it's accurate 16:38:23</p> <p>12 to say that Mallinckrodt employees knew as of 16:38:28</p> <p>13 2007 how to utilize chargeback data to 16:38:31</p> <p>14 understand where pills were going after they 16:38:34</p> <p>15 were shipped to Mallinckrodt customers, 16:38:37</p> <p>16 correct? 16:38:39</p> <p>17 MR. O'CONNOR: Object to form. 16:38:39</p> <p>18 THE WITNESS: Yes. 16:38:39</p> <p>19 (Mallinckrodt-Harper Exhibit 23 16:38:51</p> <p>20 marked for identification.) 16:38:51</p> <p>21 QUESTIONS BY MR. KO: 16:38:51</p> <p>22 Q. Okay. I'm going to hand you a 16:38:52</p> <p>23 copy of what will be marked as Harper 16:38:53</p> <p>24 Exhibit 23. 16:38:55</p> <p>25 And for the record, this 16:39:02</p>	<p style="text-align: right;">Page 373</p> <p>1 sentence of that e-mail response. 16:40:35</p> <p>2 A. "Using chargeback data, it is 16:40:39</p> <p>3 indeed possible to know our customer's 16:40:41</p> <p>4 customer with great specificity." 16:40:46</p> <p>5 Q. Okay. And do you have any 16:40:49</p> <p>6 reason to doubt that you in fact sent that 16:40:50</p> <p>7 e-mail to Mr. Ratliff on July 21, 2010? 16:40:51</p> <p>8 A. No. 16:40:54</p> <p>9 Q. And so it's accurate to state 16:40:55</p> <p>10 that as of July 2010, you understood that you 16:40:58</p> <p>11 could utilize chargeback data to understand 16:41:03</p> <p>12 with great specificity knowledge of your 16:41:07</p> <p>13 customer's customer; is that accurate? 16:41:11</p> <p>14 A. Knowledge of who our customer 16:41:14</p> <p>15 was shipping to, yes. 16:41:20</p> <p>16 Q. Okay. So just so the record is 16:41:21</p> <p>17 clear, yes or no: Is it accurate to state 16:41:25</p> <p>18 that as of July 2010, you understood that you 16:41:26</p> <p>19 could utilize chargeback data to understand 16:41:32</p> <p>20 with great specificity where -- where your 16:41:34</p> <p>21 pills were going after you shipped to the 16:41:38</p> <p>22 distributor? 16:41:42</p> <p>23 MR. O'CONNOR: Object to form. 16:41:42</p> <p>24 THE WITNESS: Yes. 16:41:43</p> <p>25</p>

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1 QUESTIONS BY MR. KO: 16:41:43

2 Q. You can set that aside. 16:41:46

3 (Mallinckrodt-Harper Exhibit 24 16:41:48

4 marked for identification.) 16:41:49

5 QUESTIONS BY MR. KO: 16:41:49

6 Q. This is a copy of what will be 16:41:59

7 marked as Harper Exhibit 24. 16:42:00

8 And this ends, for the record, 16:42:09

9 ends in Bates 280607. 16:42:09

10 And this appears to be a 16:42:31

11 November 1, 2010 letter that you send to Paul 16:42:32

12 Kleissle, correct? 16:42:38

13 A. Yes. 16:42:39

14 Q. And you'll see later on there's 16:42:40

15 the signature block of you on the second 16:42:43

16 page. 16:42:46

17 A. Yes. 16:42:47

18 Q. And is it accurate to say that 16:42:47

19 you're sending him this correspondence on 16:42:49

20 November 1, 2010, to describe to him what you 16:42:52

21 can utilize based on the chargeback 16:42:56

22 information that you are -- that you have 16:42:59

23 been reviewing in that 2010 time period? 16:43:00

24 A. Yes. 16:43:03

25 Q. Okay. That's all I have on 16:43:04

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1 that document. 16:43:14

2 Now, in connection with running 16:43:15

3 chargeback reports, is it also accurate to 16:43:28

4 say that indirect match reports were reports 16:43:33

5 that you asked to be run to understand the 16:43:40

6 downstream details of a transaction? 16:43:44

7 MR. O'CONNOR: Object to form. 16:43:46

8 THE WITNESS: I don't 16:43:47

9 understand the term "indirect match 16:43:49

10 report." 16:43:50

11 QUESTIONS BY MR. KO: 16:43:52

12 Q. Okay. How about -- let's -- 16:43:52

13 I'm sorry, let's go back to that document 16:43:55

14 then that we just set aside. 16:43:58

15 A. All right. 16:43:59

16 Q. And in the first sentence of 16:44:00

17 this correspondence to Mr. Kleissle, you 16:44:09

18 ask -- or you indicate, "In an ongoing effort 16:44:12

19 to enhance our existing suspicious order 16:44:15

20 monitoring program and in accordance with 21 16:44:18

21 CFR 1301.74, Mallinckrodt has begun the 16:44:22

22 process of reviewing sales to indirect end 16:44:26

23 user customers, open parens, retail 16:44:30

24 pharmacies, close parens, but geographic 16:44:34

25 region. This analysis is accomplished by a 16:44:36

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1 review of chargeback data." 16:44:39

2 Did I read that correctly? 16:44:41

3 A. Yes. 16:44:41

4 Q. Okay. And understanding that 16:44:41

5 you don't recall the use of the word 16:44:45

6 "indirect match report," you at least in this 16:44:47

7 correspondence refer to retail pharmacies as 16:44:53

8 indirect end user customers, correct? 16:44:55

9 A. Yes. 16:44:58

10 Q. Okay. Do you recall a time in 16:45:00

11 which -- and you state to Mr. Kleissle that 16:45:03

12 you can do this and accomplish this by 16:45:07

13 reviewing chargeback data, correct? 16:45:11

14 A. Yes. 16:45:12

15 Q. Okay. And so do you recall a 16:45:12

16 time in which you had asked for reports to be 16:45:15

17 run on indirect end user customers? 16:45:20

18 A. Yes. 16:45:24

19 Q. Okay. And these -- you can set 16:45:25

20 that aside. 16:45:28

21 And in these reports -- you ran 16:45:28

22 certain reports or had asked certain reports 16:45:37

23 to be run in connection with certain 16:45:39

24 customers that you were shipping drugs to, 16:45:44

25 including Harvard, for example, correct? 16:45:49

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1 MR. O'CONNOR: Object to form. 16:45:51

2 THE WITNESS: Yes. 16:45:51

3 QUESTIONS BY MR. KO: 16:45:53

4 Q. By the way, when asking others 16:46:04

5 to run reports about indirect end users, did 16:46:06

6 you have a name for these reports, or did you 16:46:13

7 call them by a specific moniker? 16:46:15

8 A. I believe chargeback reports. 16:46:19

9 Q. Okay. 16:46:21

10 A. Yes. 16:46:21

11 Q. So that's helpful. 16:46:22

12 So you -- is it accurate to say 16:46:23

13 that identification of pills that end up -- 16:46:28

14 end up at retail pharmacies was accomplished 16:46:35

15 through running chargeback reports? 16:46:38

16 A. Yes. 16:46:41

17 Q. Okay. And you performed 16:46:41

18 chargeback reports in connection with various 16:46:46

19 distributors that had their license suspended 16:46:50

20 by the DEA, including Harvard, for example, 16:46:52

21 correct? 16:46:54

22 MR. O'CONNOR: Object to form. 16:46:55

23 THE WITNESS: Yes. 16:46:56

24 QUESTIONS BY MR. KO: 16:46:56

25 Q. Okay. And also Masters and 16:46:57

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1 Sunrise and Cedardale? 16:46:59

2 MR. O'CONNOR: Same objection. 16:47:05

3 THE WITNESS: Yes. 16:47:06

4 QUESTIONS BY MR. KO: 16:47:06

5 Q. Okay. Did you also run 16:47:06

6 chargeback reports for customers of 16:47:08

7 KeySource? 16:47:09

8 A. Yes. 16:47:11

9 Q. Okay. So is it fair to say 16:47:14

10 that you had chargeback reports run for 16:47:18

11 customers of KeySource, Cedardale, Masters, 16:47:24

12 Sunrise and Harvard? 16:47:29

13 A. Yes. 16:47:30

14 Q. And this was all in the 2009 to 16:47:30

15 2010 time period? 16:47:32

16 A. I'm terrible with my years, 16:47:33

17 but -- I don't know the year. 16:47:36

18 Q. Okay. 16:47:40

19 A. The years. 16:47:40

20 Q. Generally speaking, was it -- 16:47:40

21 do you recall these reports being run in the 16:47:42

22 2009 through 2011 time period? 16:47:45

23 A. Yes. 16:47:47

24 Q. Okay. Now, the chargeback 16:47:52

25 reports you could distinguish by Mallinckrodt 16:47:58

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1 drug, correct? 16:48:02

2 MR. O'CONNOR: Objection. 16:48:04

3 THE WITNESS: Yes. 16:48:04

4 QUESTIONS BY MR. KO: 16:48:05

5 Q. In other words, you could 16:48:05

6 determine -- you could sort by all oxy 15s or 16:48:06

7 30s that Mallinckrodt was sending to a 16:48:13

8 particular customer, correct? 16:48:14

9 A. Yes. 16:48:16

10 (Mallinckrodt-Harper Exhibit 25 16:48:19

11 marked for identification.) 16:48:20

12 QUESTIONS BY MR. KO: 16:48:20

13 Q. Okay. I'm going to hand you a 16:48:20

14 copy of what's going to be marked as 16:48:22

15 Exhibit 25. 16:48:25

16 And I will represent to counsel 16:48:30

17 and for the record that this is a 16:48:32

18 demonstrative chart that we have prepared 16:48:33

19 based on chargeback data that you had pulled 16:48:36

20 for Harvard. 16:48:39

21 And we can refer to it in a 16:48:48

22 moment, but again, to be clear, you had run 16:48:51

23 chargeback reports in connection with 16:48:55

24 customers of Harvard Drug, correct? 16:48:57

25 A. Yes. 16:48:59

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1 Q. And do you recall who you had 16:48:59

2 perform that analysis? 16:49:07

3 A. No. 16:49:08

4 Q. Either Ms. Spaulding or 16:49:08

5 Ms. Rowley-Kilper? 16:49:10

6 A. It may have been Ms. Neely. 16:49:11

7 Q. Ms. Neely, okay. 16:49:13

8 Now, I'll represent for the 16:49:16

9 record that this is a summary of the 16:49:19

10 chargeback information that appears on that 16:49:20

11 report. And if you look at the bottom row 16:49:28

12 total, there appears to be 12,487 total 16:49:33

13 orders recorded in which Harvard Drug sold 16:49:43

14 controlled substances. 16:49:48

15 Do you see that? 16:49:49

16 A. Yes. 16:49:49

17 Q. So I'll represent to you for 16:49:50

18 the record that the chargeback data that you 16:49:52

19 had run for Harvard Drug reported that there 16:49:58

20 were 12,000 -- a total of 12,487 16:49:59

21 transactions. 16:50:02

22 MR. O'CONNOR: Counsel, I'm 16:50:03

23 going to object. 16:50:03

24 Just to be clear, are you 16:50:04

25 saying that this is a document that 16:50:06

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1 you've prepared based on produced 16:50:08

2 data? 16:50:11

3 MR. KO: Based on produced 16:50:11

4 data, the Bates number which appears 16:50:13

5 at the top of this. 16:50:14

6 MR. O'CONNOR: Okay. So the 16:50:15

7 fact that the Bates number is at the 16:50:15

8 top here does not mean that this is a 16:50:17

9 copy of the document we produced? 16:50:18

10 MR. KO: That's -- that's 16:50:20

11 right. 16:50:22

12 MR. O'CONNOR: Okay. Thank 16:50:22

13 you. 16:50:24

14 MR. KO: This itself is not a 16:50:24

15 copy of a document that you produced 16:50:27

16 but is instead based on the 16:50:29

17 information that is -- appears on this 16:50:30

18 Bates number. 16:50:32

19 MR. O'CONNOR: Thank you. 16:50:32

20 QUESTIONS BY MR. KO: 16:50:33

21 Q. Now, I'll represent to you that 16:50:36

22 this Bates number -- or this document 16:50:38

23 reflects that Harvard Drug was doing business 16:50:44

24 as First Veterinary Supply. 16:50:48

25 Do you recall ever being made 16:50:51

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1 aware of certain transactions or pills that 16:50:56
2 were being sent to a First Veterinary Supply? 16:50:58
3 A. No. 16:51:00
4 Q. Okay. Would you agree with me 16:51:02
5 that sending pills to a -- prescription 16:51:03
6 opioids to a veterinarian clinic would be 16:51:07
7 suspicious or potentially suspicious? 16:51:14
8 MR. O'CONNOR: Object to form. 16:51:15
9 THE WITNESS: That depends on 16:51:16
10 the product and the quantities. 16:51:18
11 QUESTIONS BY MR. KO: 16:51:19
12 Q. Okay. Do you recall shipping 16:51:19
13 prescription opioids to vet clinics? 16:51:23
14 A. I cannot say if we did or did 16:51:25
15 not. 16:51:26
16 Q. Okay. Harvard Drug -- do you 16:51:27
17 recall when Harvard Drug had its license 16:51:41
18 suspended by the DEA? 16:51:44
19 A. 2010 or before, around that 16:51:45
20 time. 16:51:51
21 Q. Okay. And they had their 16:51:52
22 license suspended because of diversion of 16:51:54
23 pills -- diversion of pills by certain 16:51:58
24 customers that they sold to, correct? 16:52:05
25 MR. O'CONNOR: Object to form. 16:52:07

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1 THE WITNESS: Yes. 16:52:08
2 QUESTIONS BY MR. KO: 16:52:10
3 Q. Okay. And would you agree with 16:52:10
4 me that First Vet Supply is not a physician 16:52:25
5 or a pain clinic? 16:52:30
6 A. I don't know their business 16:52:32
7 model. I don't -- is their DEA registration 16:52:34
8 number the same as Harvard Drug Group? 16:52:38
9 Q. I believe that to be the case, 16:52:42
10 actually. 16:52:44
11 A. So, many of our distributors 16:52:44
12 had d/b/a second lines, and that's a -- my 16:52:54
13 understanding is a legal term implying the 16:52:57
14 organization of a corporation. So I only 16:52:59
15 knew this customer as Harvard Drug. 16:53:01
16 Q. Okay. Setting aside the name, 16:53:03
17 did you understand that a large percentage of 16:53:10
18 drugs sold by Harvard Drug were going to 16:53:15
19 Florida? And in particular, I direct you to 16:53:18
20 the percentages that appear in the middle of 16:53:28
21 the screen that show Florida percentage. 16:53:24
22 A. So total POs doesn't tell me 16:53:28
23 number of drugs. They could have been 16:53:30
24 purchase orders for a hundred drugs or 10,000 16:53:33
25 dosage units, so I can't -- I don't have 16:53:35

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1 enough information to answer that question. 16:53:37
2 Q. Okay. But if you look at 16:53:39
3 Florida percent POs -- do you see that? 16:53:40
4 A. I do. 16:53:43
5 Q. Okay. And is that -- in the 16:53:44
6 chargeback data, you had been able to 16:53:47
7 determine what percentage of purchase orders 16:53:51
8 went to Florida, correct? 16:53:55
9 A. No. 16:53:56
10 Q. You did not? 16:54:01
11 A. No. 16:54:02
12 Q. Okay. Wasn't it the case that 16:54:02
13 through the chargeback data you knew you 16:54:08
14 could understand, as we discussed earlier, 16:54:11
15 where the pills that you sold to the 16:54:13
16 distributors were going? 16:54:16
17 A. Yes, but in this context, I 16:54:17
18 believe the purchase order to be the purchase 16:54:20
19 order from Harvard to Mallinckrodt as the 16:54:22
20 supplier, not forward through the supply 16:54:25
21 chain. 16:54:27
22 Q. Okay. So it's your 16:54:27
23 understanding that this is just -- well, 16:54:28
24 Harvard Drug, do you know where they were 16:54:32
25 located? 16:54:35

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1 A. I believe Wisconsin. 16:54:35
2 Q. Okay. I think they were in 16:54:37
3 Michigan, but somewhere in the Midwest. 16:54:40
4 A. All right. 16:54:42
5 Q. So you're saying that this is 16:54:42
6 the percentage of initial pills that go to 16:54:43
7 the distributor? 16:54:47
8 A. Again, these are purchase 16:54:48
9 orders. They could have been for 100 pills 16:54:51
10 or a million pills. I don't have enough 16:54:55
11 information to answer the question. 16:54:57
12 Q. Okay. Turn to the second page 16:54:58
13 of this document. And so these -- these 16:55:06
14 columns, by the way, are taken straight from 16:55:14
15 the -- I'll represent to you that they're 16:55:16
16 taken straight from the chargeback reports 16:55:18
17 that are reflected by this Bates number. 16:55:22
18 And if you see on the far 16:55:25
19 right-hand side above the oxy 15 and oxy 30 16:55:27
20 sections, do you see the reference to UOM? 16:55:30
21 A. I do. 16:55:34
22 Q. And what's your understanding 16:55:34
23 of UOM? 16:55:35
24 A. Unit of measure. 16:55:36
25 Q. Okay. And would that actually 16:55:38

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1 be synonymous with, for example, a pill? 16:55:40
 2 A. Yes. 16:55:44
 3 Q. So that's the actual amount of 16:55:45
 4 pills that are being shipped for that 16:55:47
 5 particular order, correct? 16:55:51
 6 A. It -- this is a monthly total, 16:55:53
 7 so, yes, if we're -- yes, I'm sorry, I didn't 16:55:59
 8 have the correlation to -- that a PO equals 16:56:04
 9 one month in -- I'm just not familiar with 16:56:08
 10 the spreadsheet, so, yes. 16:56:10
 11 Q. Yeah, fair enough. 16:56:12
 12 And on the -- on this document 16:56:13
 13 there's an indication also of Florida 16:56:18
 14 percentage sales, quantity government UOM. 16:56:21
 15 Do you see that? 16:56:24
 16 A. Yes. 16:56:24
 17 Q. Do you recall that particular 16:56:25
 18 data field in the chargeback information? 16:56:28
 19 A. Yes. 16:56:30
 20 Q. Okay. And so does that reflect 16:56:31
 21 the percentage of pills that went to 16:56:33
 22 downstream customers of Mallinckrodt? 16:56:37
 23 MR. O'CONNOR: Object to form. 16:56:40
 24 QUESTIONS BY MR. KO: 16:56:45
 25 Q. In other words -- let me ask it 16:56:46

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1 a different way. 16:56:47
 2 Does this percentage reflect 16:56:47
 3 the total percentage of pills relative to the 16:56:49
 4 total order that ended up in Florida? 16:56:52
 5 MR. O'CONNOR: Object to form. 16:56:55
 6 THE WITNESS: Yes. 16:56:55
 7 QUESTIONS BY MR. KO: 16:56:56
 8 Q. Okay. So you'll see that the 16:56:56
 9 summary indicates below that from the fourth 16:57:00
 10 quarter 2008 through the second quarter of 16:57:04
 11 2010, that at least with respect to oxy 15s, 16:57:06
 12 90.5 percent of Mallinckrodt pills that were 16:57:13
 13 sold to Harvard ended up in Florida. 16:57:17
 14 Do you see that? 16:57:20
 15 A. Yes. 16:57:21
 16 Q. Okay. And likewise with 16:57:22
 17 respect to oxy 30s during that same time 16:57:23
 18 period, 88 percent ended up in Florida, 16:57:27
 19 correct? 16:57:31
 20 A. Yes. 16:57:31
 21 Q. Okay. Was it suspicious to you 16:57:31
 22 at the time that such a disproportionate 16:57:37
 23 percentage of pills were ending up in 16:57:41
 24 Florida? 16:57:43
 25 MR. O'CONNOR: Object to form. 16:57:43

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1 THE WITNESS: So this report 16:57:44
 2 that you extracted from our production 16:57:48
 3 information, it is -- it is data that 16:57:51
 4 for certain came to me? 16:57:54
 5 QUESTIONS BY MR. KO: 16:57:57
 6 Q. Uh-huh. 16:57:59
 7 A. It is? 16:58:00
 8 Q. No. Yes, this is -- this is 16:58:01
 9 data based on chargeback reports that were 16:58:03
 10 requested at the direction of you, correct. 16:58:07
 11 A. I -- I don't know. 16:58:11
 12 Q. Okay. That wasn't my question. 16:58:15
 13 A. Okay. 16:58:17
 14 Q. I'll represent to you that 16:58:17
 15 these chargeback reports were run in 16:58:18
 16 connection with your investigation of where 16:58:21
 17 your pills were going. 16:58:24
 18 So my question to you simply 16:58:25
 19 is: Were you aware at the time -- or is it 16:58:28
 20 suspicious -- separate and apart from the 16:58:32
 21 process of running this report -- 16:58:34
 22 A. Uh-huh. 16:58:36
 23 Q. -- is it suspicious to you that 16:58:36
 24 90 percent of all pills that you shipped to 16:58:40
 25 Harvard Drug end up going to Florida? 16:58:44

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1 MR. O'CONNOR: Object to form. 16:58:47
 2 THE WITNESS: Yes, it appears 16:58:48
 3 to be a disproportionate percentage of 16:59:24
 4 this product going into Florida. 16:59:28
 5 QUESTIONS BY MR. KO: 16:59:30
 6 Q. Okay. Thank you for waiting. 16:59:30
 7 A. It's all right. 16:59:31
 8 Q. And based on this review of 16:59:32
 9 Harvard chargeback information, did you also 16:59:41
 10 conclude that Harvard's suspicious order 16:59:45
 11 monitoring system was inadequate? 16:59:47
 12 A. Can you tell me when -- I don't 16:59:52
 13 know when Harvard was suspended. So was this 16:59:54
 14 after their suspension that I had the report 16:59:56
 15 pulled? 16:59:59
 16 Q. Well, I would say separate and 16:59:59
 17 apart from these numbers -- 17:00:01
 18 A. Okay. 17:00:04
 19 Q. -- did you review chargeback 17:00:04
 20 data to make the determination of whether or 17:00:07
 21 not Harvard's suspicious order monitoring 17:00:10
 22 system was effective? 17:00:12
 23 MR. O'CONNOR: Object to form. 17:00:14
 24 THE WITNESS: I don't know. I 17:00:14
 25 don't know how to answer the question. 17:00:20

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1 QUESTIONS BY MR. KO: 17:00:23

2 Q. Okay. Do you recall a period 17:00:23

3 of time, or do you recall ever reviewing the 17:00:24

4 suspicious order monitoring systems of your 17:00:26

5 distributors? 17:00:29

6 A. Of our distributors? 17:00:29

7 Q. Yes. 17:00:32

8 A. To their downstream customers? 17:00:33

9 Q. Correct. 17:00:35

10 A. Yes. 17:00:35

11 Q. In other words, Mallinckrodt 17:00:36

12 was the registrant in the CSA that had duties 17:00:38

13 to maintain effective controls against 17:00:42

14 diversion, but so too were distributors as 17:00:44

15 well, correct? 17:00:46

16 MR. O'CONNOR: Object to form. 17:00:47

17 THE WITNESS: Correct. 17:00:47

18 Correct. 17:00:47

19 QUESTIONS BY MR. KO: 17:00:48

20 Q. So distributors like both 17:00:48

21 Harvard or Sunrise, including the major 17:00:53

22 distributors like ABC, McKesson and Cardinal, 17:00:56

23 all had duties to maintain effective controls 17:00:59

24 against diversion, correct? 17:01:02

25 MS. KVESELIS: Object to form. 17:01:04

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1 THE WITNESS: Correct. 17:01:05

2 QUESTIONS BY MR. KO: 17:01:06

3 Q. And all these registrants had 17:01:06

4 duties to implement and design an effective 17:01:08

5 suspicious order monitoring program, correct? 17:01:11

6 MR. O'CONNOR: Object to form. 17:01:12

7 THE WITNESS: That guards 17:01:13

8 against -- yes, guards against 17:01:16

9 diversion, yes. 17:01:18

10 QUESTIONS BY MR. KO: 17:01:20

11 Q. And was there a period of time 17:01:20

12 in which Mallinckrodt decided to perform an 17:01:21

13 audit or a review of your distributors' SOM 17:01:25

14 programs? 17:01:32

15 A. Yes. 17:01:32

16 Q. And during that review and 17:01:32

17 based on that review, did you make 17:01:33

18 determinations as to whether or not you would 17:01:36

19 continue to ship to certain distributors? 17:01:38

20 A. Yes. 17:01:40

21 Q. And one of the reasons for 17:01:40

22 which you decided to stop shipping to certain 17:01:46

23 distributors was as a result of pulling 17:01:49

24 chargeback information in which you could 17:01:52

25 identify details of where your pills were 17:01:54

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1 going after you shipped them to the 17:01:57

2 distributor, correct? 17:01:59

3 MR. O'CONNOR: Object to form. 17:02:00

4 THE WITNESS: That's one of the 17:02:00

5 reasons that pointed us to a certain 17:02:04

6 distributor, to go and visit them, 17:02:06

7 yes. 17:02:08

8 QUESTIONS BY MR. KO: 17:02:08

9 Q. Okay. And some of this 17:02:09

10 chargeback data, by the way, some of the 17:02:10

11 chargeback information was provided to you by 17:02:13

12 certain distributors, correct? 17:02:15

13 MR. O'CONNOR: Object to form. 17:02:17

14 THE WITNESS: No, this is our 17:02:17

15 information. 17:02:20

16 QUESTIONS BY MR. KO: 17:02:20

17 Q. Okay. In 2010 you performed -- 17:02:21

18 at some point in 2010 you performed some 17:02:36

19 audits of your distributors, correct? 17:02:39

20 A. Yes. 17:02:41

21 Q. And you recall that these 17:02:43

22 audit -- in these audits you actually went to 17:02:46

23 the -- your customer and visited some of 17:02:51

24 their facilities? 17:02:53

25 A. Yes. 17:02:55

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1 Q. And you went to -- I believe 17:02:55

2 you performed on-site audits of at least 17:02:58

3 Masters and KeySource; is that correct? 17:03:02

4 A. Correct. 17:03:04

5 Q. Okay. And these -- what was 17:03:04

6 the purpose of performing these on-site 17:03:06

7 audits? 17:03:10

8 A. So we had reviewed -- the 17:03:11

9 purpose was to review their suspicious order 17:03:14

10 monitoring and understand which -- what due 17:03:19

11 diligence they perform when reviewing their 17:03:21

12 customers. 17:03:24

13 (Mallinckrodt-Harper Exhibit 26 17:03:26

14 marked for identification.) 17:03:27

15 QUESTIONS BY MR. KO: 17:03:27

16 Q. Okay. I'm going to hand you a 17:03:27

17 copy of what's going to be marked as Harper 17:03:28

18 Exhibit 26. 17:03:30

19 And for the record, this is -- 17:03:33

20 ends in Bates 48430. 17:03:34

21 I just have some general 17:03:47

22 questions about this, so feel free to consult 17:03:49

23 the document if you need to. But I just want 17:03:51

24 to know whether or not this reflects the 17:03:54

25 written report of your on-site audit to 17:03:56

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1 Masters as of December 7, 2010? 17:04:00

2 A. Yes. 17:04:02

3 Q. And so as you described, one of 17:04:03

4 the purposes of performing this audit was to 17:04:04

5 review Masters' suspicious order monitoring 17:04:08

6 system; is that correct? 17:04:11

7 A. Yes. 17:04:11

8 Q. Okay. And do you recall 17:04:12

9 actually going out to Masters Pharmaceutical 17:04:17

10 located in Cincinnati, Ohio? 17:04:19

11 A. Yes. 17:04:20

12 Q. And you went there with 17:04:20

13 Mr. Ratliff, correct? 17:04:21

14 A. Yes. 17:04:22

15 Q. And at the time you -- there 17:04:23

16 was some certain with respect to Masters 17:04:27

17 Pharmaceutical activities, and so that 17:04:30

18 prompted the need for you and Mr. Ratliff to 17:04:32

19 go visit; is that accurate? 17:04:35

20 A. Yes. 17:04:40

21 Q. Okay. And by the way, Masters 17:04:40

22 Pharmaceutical also had its license suspended 17:04:42

23 by the DEA at some point, correct? 17:04:43

24 A. Yes. 17:04:44

25 Q. Okay. I believe that was 2014, 17:04:44

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1 but it related -- is it consistent with your 17:04:49

2 understanding that it related to activities 17:04:51

3 regarding their distribution of prescription 17:04:53

4 opioids in the 2008 through 2014 time period? 17:04:56

5 MR. O'CONNOR: Object to form. 17:04:59

6 THE WITNESS: I don't know the 17:04:59

7 date of the covered conduct. 17:05:01

8 QUESTIONS BY MR. KO: 17:05:04

9 Q. Okay. Was there ever a time 17:05:04

10 when you ceased or put a temporary hold on 17:05:10

11 shipping orders to Masters? 17:05:13

12 A. Yes. 17:05:14

13 Q. And that occurred at some point 17:05:14

14 in the late 2010 time period, right? 17:05:16

15 A. Yes. 17:05:18

16 Q. And after this review, it was 17:05:18

17 determined that they were -- it was 17:05:24

18 sufficient to resume shipments to Masters; is 17:05:28

19 that fair to say? 17:05:34

20 A. No. 17:05:34

21 Q. Or did you -- at the time you 17:05:34

22 ceased sending shipments to Masters in late 17:05:36

23 2010, did you ever resume shipments to 17:05:39

24 Masters? 17:05:41

25 A. No. 17:05:42

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1 Q. Okay. 17:05:43

2 A. It's my understanding that they 17:05:44

3 have recently been reissued a DEA 17:05:47

4 registration, so I don't know the current 17:05:49

5 status, but from 2010 forward, no. 17:05:50

6 Q. Fair enough. 17:05:53

7 And in addition to the on-site 17:05:54

8 audit of Masters, you had done an on-site 17:06:00

9 audit of KeySource as well, correct? 17:06:03

10 A. Yes. 17:06:06

11 Q. Do you recall any other on-site 17:06:06

12 audits that you were -- you participated in? 17:06:09

13 A. Sunrise, previously, and then 17:06:10

14 there were others subsequently. But at this 17:06:12

15 time I did not go to Cedardale; several of my 17:06:15

16 colleagues did. 17:06:19

17 Q. Got it. 17:06:20

18 So other than on-site audits 17:06:20

19 performed of Cedardale, KeySource, Sunrise 17:06:23

20 and Masters, are you aware of any other 17:06:28

21 on-site audits that the SOM team conducted? 17:06:30

22 A. Ever? 17:06:33

23 Q. From in the 2009 through 2012 17:06:35

24 time period. 17:06:38

25 A. Yes. 17:06:39

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1 Q. Okay. Which additional on-site 17:06:40

2 audits did you perform? 17:06:44

3 A. We went to AmerisourceBergen, 17:06:45

4 McKesson, Cardinal, and I believe HD Smith, 17:06:49

5 although -- yes, HD Smith, yes. 17:06:56

6 Q. And again, the purpose of these 17:06:59

7 on-site audits was to, among other things, 17:07:01

8 examine and understand their SOM program? 17:07:04

9 A. Yes. 17:07:05

10 (Mallinckrodt-Harper Exhibit 27 17:07:19

11 marked for identification.) 17:07:19

12 QUESTIONS BY MR. KO: 17:07:05

13 Q. Okay. Now, turning to -- you 17:07:05

14 can set that aside, and I'm going to hand you 17:07:15

15 a copy of what will be marked as Exhibit 27. 17:07:17

16 And for the record, this ends 17:07:23

17 in Bates 970734. 17:07:25

18 And this appears to be a letter 17:07:38

19 you drafted to Masters on September 21, 2011, 17:07:40

20 correct? 17:07:46

21 A. Yes. 17:07:46

22 Q. Okay. And now, you had 17:07:46

23 testified that you ceased shipments to 17:07:48

24 Masters at the end of 2010; is that correct? 17:07:52

25 A. Approximate time. I'm not 17:07:55

<p style="text-align: right;">Page 398</p> <p>1 certain. 17:07:57</p> <p>2 Q. But despite -- well, you 17:07:57</p> <p>3 stopped shipping to them, but you are still 17:08:02</p> <p>4 undergoing a review of their SOM program; is 17:08:05</p> <p>5 that correct? 17:08:08</p> <p>6 A. At their request, yes. 17:08:08</p> <p>7 Q. At their request. Okay. 17:08:09</p> <p>8 And on -- this culminates in a 17:08:11</p> <p>9 letter on September 21, 2011, from you to 17:08:15</p> <p>10 Mr. Corona, who I believe is the president of 17:08:20</p> <p>11 Masters Pharmaceutical. 17:08:24</p> <p>12 Is that consistent with your 17:08:24</p> <p>13 understanding? 17:08:25</p> <p>14 A. I don't know his title. He was 17:08:25</p> <p>15 an executive, yes. 17:08:28</p> <p>16 Q. Okay. And you indicate that, 17:08:28</p> <p>17 among other things, "We are not comfortable 17:08:30</p> <p>18 that your suspicious order monitoring program 17:08:33</p> <p>19 is robust enough to identify suspicious 17:08:34</p> <p>20 orders of controlled substances to ensure 17:08:37</p> <p>21 that the products are being used for 17:08:39</p> <p>22 legitimate medicinal purposes." 17:08:42</p> <p>23 Did I read that correctly? 17:08:46</p> <p>24 A. Yes. 17:08:46</p> <p>25 Q. And you continue that "As 17:08:46</p>	<p style="text-align: right;">Page 400</p> <p>1 A. Yes. 17:09:37</p> <p>2 Q. Okay. So you've done an 17:09:38</p> <p>3 analysis of their SOM program, and you 17:09:39</p> <p>4 conclude that Mallinckrodt is not comfortable 17:09:43</p> <p>5 making any sales to them? 17:09:46</p> <p>6 A. Yes. 17:09:47</p> <p>7 Q. You can set that aside. 17:09:47</p> <p>8 (Mallinckrodt-Harper Exhibit 28 17:10:00</p> <p>9 marked for identification.) 17:10:01</p> <p>10 QUESTIONS BY MR. KO: 17:10:01</p> <p>11 Q. And I'm going to hand you a 17:10:01</p> <p>12 copy of what'll be marked as Harper 17:10:02</p> <p>13 Exhibit 28. 17:10:05</p> <p>14 And for the record, this ends 17:10:07</p> <p>15 in Bates 289368. 17:10:08</p> <p>16 Does this letter look familiar 17:10:15</p> <p>17 to you, Ms. Harper? 17:10:18</p> <p>18 A. Yes. Yes. 17:10:19</p> <p>19 Q. And this is -- in your ongoing 17:10:19</p> <p>20 review of chargeback data, you are able to 17:10:21</p> <p>21 identify through this letter that you send to 17:10:24</p> <p>22 your customers a series of pharmacies that 17:10:30</p> <p>23 your customers ship to that you will not be 17:10:36</p> <p>24 processing chargeback requests for; is that 17:10:39</p> <p>25 accurate? 17:10:42</p>
<p style="text-align: right;">Page 399</p> <p>1 parted of our SOM and through evaluation of 17:08:48</p> <p>2 customer buying patterns and chargeback data, 17:08:50</p> <p>3 we have identified unusual purchasing 17:08:53</p> <p>4 patterns by some of your customers for 17:08:54</p> <p>5 oxycodone 15-milligram and 30-milligram 17:08:56</p> <p>6 tablets." 17:09:01</p> <p>7 Did I read that correctly? 17:09:02</p> <p>8 A. Yes. 17:09:02</p> <p>9 Q. So this is an example of how 17:09:03</p> <p>10 you have utilized chargeback data that 17:09:05</p> <p>11 Mallinckrodt can acquire to identify certain 17:09:09</p> <p>12 customer buying patterns, among other things, 17:09:15</p> <p>13 correct? 17:09:17</p> <p>14 A. Correct. 17:09:18</p> <p>15 Q. And also to identify unusual 17:09:18</p> <p>16 purchasing patterns by some of Masters' 17:09:22</p> <p>17 customers, correct? 17:09:24</p> <p>18 MR. O'CONNOR: Object to form. 17:09:25</p> <p>19 THE WITNESS: Correct. 17:09:25</p> <p>20 QUESTIONS BY MR. KO: 17:09:26</p> <p>21 Q. Okay. And based on that 17:09:26</p> <p>22 review, you indicate that you are not 17:09:29</p> <p>23 prepared, Mallinckrodt is not prepared, to 17:09:33</p> <p>24 resume sales of controlled substances, 17:09:35</p> <p>25 correct? 17:09:37</p>	<p style="text-align: right;">Page 401</p> <p>1 A. Yes, and it was also after 17:10:42</p> <p>2 meeting with the distributors to understand 17:10:46</p> <p>3 their due diligence at the pharmacy level, 17:10:48</p> <p>4 yes. 17:10:50</p> <p>5 Q. Okay. And just so I understand 17:10:50</p> <p>6 this document and just so the record is 17:10:51</p> <p>7 clear, I understand you sent this same letter 17:10:53</p> <p>8 to all 43 wholesale distributors of 17:10:57</p> <p>9 Mallinckrodt as of October 17, 2011, correct? 17:11:04</p> <p>10 A. Yes. 17:11:06</p> <p>11 Q. And so these were all your 17:11:06</p> <p>12 customers that you shipped Mallinckrodt 17:11:07</p> <p>13 opioids to, correct, during this time period? 17:11:12</p> <p>14 A. Well, specifically oxycodone 15 17:11:14</p> <p>15 and 30, yes. 17:11:16</p> <p>16 Q. Okay. So 40 -- there were 43 17:11:17</p> <p>17 wholesale distributors as of October 17, 17:11:20</p> <p>18 2011, that you had previously done business 17:11:24</p> <p>19 with that was -- that you had shipped oxy 15s 17:11:27</p> <p>20 and oxy 30s to, correct? 17:11:29</p> <p>21 MR. O'CONNOR: Object to form. 17:11:31</p> <p>22 THE WITNESS: You know, I'd 17:11:32</p> <p>23 like to clarify my previous -- so 17:11:35</p> <p>24 these were all wholesalers and 17:11:37</p> <p>25 distributors of records as purchasing 17:11:39</p>

<p style="text-align: right;">Page 402</p> <p>1 opioids, but they may not have 17:11:42</p> <p>2 purchased oxy 15 and 30. They may 17:11:43</p> <p>3 have purchased other opioids. 17:11:46</p> <p>4 So that's the correct answer. 17:11:48</p> <p>5 QUESTIONS BY MR. KO: 17:11:50</p> <p>6 Q. Okay. Thank you for the 17:11:50</p> <p>7 clarification. 17:11:51</p> <p>8 A. You're welcome. 17:11:52</p> <p>9 Q. So then is it fair to say that 17:11:53</p> <p>10 these 43 wholesalers and distributors 17:11:54</p> <p>11 constituted all the wholesaler distributors 17:11:59</p> <p>12 that Mallinckrodt did business with in terms 17:12:02</p> <p>13 of shipping prescription opioids to? 17:12:05</p> <p>14 A. To the best of my 17:12:07</p> <p>15 understanding, yes. 17:12:08</p> <p>16 Q. Okay. And as we just discussed 17:12:09</p> <p>17 a moment ago, "effective immediately, 17:12:17</p> <p>18 Mallinckrodt will no longer process 17:12:21</p> <p>19 chargebacks from distributor sales of 17:12:22</p> <p>20 Mallinckrodt products to the pharmacies 17:12:25</p> <p>21 identified on attachment 1 hereto." 17:12:27</p> <p>22 And those pharmacies are of 17:12:29</p> <p>23 course the ones listed in the second page of 17:12:31</p> <p>24 this document, correct? 17:12:33</p> <p>25 A. Yes. 17:12:33</p>	<p style="text-align: right;">Page 404</p> <p>1 Mallinckrodt doing audits of your customers' 17:13:28</p> <p>2 SOM programs. I want to understand to what 17:13:33</p> <p>3 extent you actually utilize IMS data to make 17:13:36</p> <p>4 certain determinations as well. 17:13:39</p> <p>5 A. Okay. We used IMS data to look 17:13:41</p> <p>6 at the prescribers of oxycodone 15s and 30s. 17:13:47</p> <p>7 When we spoke to the distributors about these 17:13:53</p> <p>8 potentially -- about these pharmacies that 17:13:57</p> <p>9 displayed red flags, we asked the 17:14:00</p> <p>10 distributors if they had a list of the top 17:14:04</p> <p>11 prescribers that were writing RXs at these 17:14:06</p> <p>12 pharmacies, and then that was a method of 17:14:09</p> <p>13 comparison that we had to this IMS data list 17:14:12</p> <p>14 of the top prescribers in the country. 17:14:14</p> <p>15 Q. Okay. And when do you recall 17:14:16</p> <p>16 first utilizing the IMS data in connection 17:14:22</p> <p>17 with this review of prescriber-level 17:14:26</p> <p>18 information? 17:14:28</p> <p>19 A. I don't know when it started. 17:14:28</p> <p>20 Q. Okay. Are you currently 17:14:30</p> <p>21 utilizing IMS data in connection with your 17:14:34</p> <p>22 suspicious order monitoring system? 17:14:36</p> <p>23 A. No. 17:14:37</p> <p>24 Q. Okay. Other than for purposes 17:14:38</p> <p>25 of sending out this letter to make 17:14:39</p>
<p style="text-align: right;">Page 403</p> <p>1 Q. Okay. And so you're not 17:12:34</p> <p>2 necessarily saying here that these pharmacies 17:12:37</p> <p>3 need to be placed on any kind of do not ship 17:12:40</p> <p>4 list. You're simply telling these 17:12:43</p> <p>5 distributors that you're not going to process 17:12:44</p> <p>6 any chargeback requests related to these 17:12:46</p> <p>7 particular pharmacies, correct? 17:12:49</p> <p>8 MR. O'CONNOR: Object to form. 17:12:50</p> <p>9 THE WITNESS: Yes. 17:12:50</p> <p>10 QUESTIONS BY MR. KO: 17:12:51</p> <p>11 Q. Okay. And by the way, going 17:12:51</p> <p>12 back to the first paragraph of this 17:12:53</p> <p>13 correspondence, you indicate to your 17:12:57</p> <p>14 customers at the end of the first paragraph 17:13:01</p> <p>15 that, quote, "As a DEA registrant, 17:13:04</p> <p>16 Mallinckrodt, LLC, a Covidien company, 17:13:06</p> <p>17 Mallinckrodt, has developed and maintains a 17:13:10</p> <p>18 comprehensive program that includes review of 17:13:12</p> <p>19 customer orders, IMS data and chargeback 17:13:14</p> <p>20 information and, where appropriate, 17:13:17</p> <p>21 subsequent audits of distributors' suspicious 17:13:20</p> <p>22 order monitoring programs," end quote. 17:13:22</p> <p>23 Did I read that correctly? 17:13:26</p> <p>24 A. Yes. 17:13:27</p> <p>25 Q. So we discussed the concept of 17:13:27</p>	<p style="text-align: right;">Page 405</p> <p>1 distributors aware that chargeback requests 17:14:46</p> <p>2 will not be honored, do you recall ever 17:14:48</p> <p>3 utilizing IMS data in connection with SOM 17:14:51</p> <p>4 activities? 17:14:55</p> <p>5 A. Not that I recall. 17:14:55</p> <p>6 Q. You can -- I'd actually ask 17:14:56</p> <p>7 that you keep that document in front of you, 17:15:08</p> <p>8 but just probably you can refer to the back 17:15:09</p> <p>9 because I want to ask you some questions 17:15:11</p> <p>10 about these pharmacies. 17:15:12</p> <p>11 A. All right. 17:15:13</p> <p>12 (Mallinckrodt-Harper Exhibit 29 17:15:15</p> <p>13 marked for identification.) 17:15:16</p> <p>14 QUESTIONS BY MR. KO: 17:15:16</p> <p>15 Q. So I'm going to hand you a copy 17:15:16</p> <p>16 of what will be marked as Harper Exhibit 29. 17:15:17</p> <p>17 A. Oh, my gosh. 17:15:30</p> <p>18 Q. And for the record, this 17:15:32</p> <p>19 document ends in Bates 32384 and is an e-mail 17:15:35</p> <p>20 from Wayne Corona at Masters to you, dated 17:15:40</p> <p>21 October 10 -- 20, 2011. 17:15:46</p> <p>22 Do you recall this e-mail? 17:15:49</p> <p>23 A. Yes. 17:15:50</p> <p>24 Q. Okay. This is Masters' 17:15:51</p> <p>25 response to the letter that you had sent to 17:15:55</p>

<p style="text-align: right;">Page 406</p> <p>1 them that we just previously discussed that 17:15:59</p> <p>2 reflects Exhibit 28; is that correct? 17:16:03</p> <p>3 A. I don't see -- we had a 17:16:04</p> <p>4 separate letter addressed -- is this in your 17:16:11</p> <p>5 pile? I'm so confused. 17:16:16</p> <p>6 Okay. We had a separate letter 17:16:18</p> <p>7 addressed to Masters. 17:16:23</p> <p>8 Q. Okay. And in that separate 17:16:23</p> <p>9 letter, you were identifying -- I believe 17:16:24</p> <p>10 I've seen that, but in that separate letter 17:16:29</p> <p>11 you identify these same pharmacies; is that 17:16:31</p> <p>12 correct? 17:16:32</p> <p>13 A. Yes. Yes. 17:16:32</p> <p>14 Q. So at some point before this 17:16:34</p> <p>15 e-mail, you had obviously indicated to 17:16:38</p> <p>16 Masters that there were certain pharmacies 17:16:40</p> <p>17 that you weren't going to honor chargebacks 17:16:48</p> <p>18 to, correct? 17:16:52</p> <p>19 A. Yes. 17:16:52</p> <p>20 Q. And I assume that there was a 17:16:52</p> <p>21 separate e-mail sent to Masters, because at 17:16:54</p> <p>22 the time you weren't doing business with 17:16:57</p> <p>23 them? 17:16:59</p> <p>24 A. I believe this is the time we 17:17:00</p> <p>25 notified Masters that we were going to 17:17:04</p>	<p style="text-align: right;">Page 408</p> <p>1 Q. Okay. So is it accurate to say 17:18:09</p> <p>2 that what he's trying to tell you is that for 17:18:12</p> <p>3 each one of these pharmacies that you have 17:18:15</p> <p>4 identified as being problematic, he has 17:18:16</p> <p>5 indicated that Masters has already placed 17:18:21</p> <p>6 them on Masters' termination list; is that 17:18:24</p> <p>7 accurate? 17:18:28</p> <p>8 A. Yes. 17:18:28</p> <p>9 Q. Okay. And for several of these 17:18:29</p> <p>10 pharmacies, Masters had placed these 17:18:32</p> <p>11 pharmacies on the termination list 17:18:36</p> <p>12 approximately one year prior to you notifying 17:18:39</p> <p>13 Masters of these problematic pharmacies; is 17:18:42</p> <p>14 that accurate? 17:18:47</p> <p>15 A. Yes. 17:18:47</p> <p>16 Q. Okay. Now, he goes on to 17:18:48</p> <p>17 say -- and I recall earlier when we discussed 17:18:57</p> <p>18 how you had indicated to Masters that they 17:19:01</p> <p>19 had an inadequate SOM program. 17:19:04</p> <p>20 A. Yes. 17:19:06</p> <p>21 Q. Okay. And he responds, quote, 17:19:07</p> <p>22 "In your last two letters to Masters, you 17:19:11</p> <p>23 have judged our SOMs to be inadequately 17:19:16</p> <p>24 robust, yet somehow we identified these 17:19:18</p> <p>25 accounts well before you, exclamation point." 17:19:20</p>
<p style="text-align: right;">Page 407</p> <p>1 discontinue sales of Mallinckrodt product to 17:17:07</p> <p>2 Masters. 17:17:09</p> <p>3 Q. Okay. 17:17:10</p> <p>4 A. So it would have been a letter. 17:17:10</p> <p>5 But we sent several letters to 17:17:11</p> <p>6 Masters, and so I -- the content of each one 17:17:13</p> <p>7 I can't attest to. 17:17:19</p> <p>8 Q. Sure. Fair enough. 17:17:19</p> <p>9 In any event, Mr. Corona, 17:17:20</p> <p>10 who -- it does appear in the end of this 17:17:24</p> <p>11 e-mail that he is the president of Masters 17:17:27</p> <p>12 Pharmaceutical. 17:17:29</p> <p>13 Do you see that? I've 17:17:29</p> <p>14 highlighted it. 17:17:38</p> <p>15 A. Yes, I do. Yes. Yes. 17:17:38</p> <p>16 Q. So you had sent some 17:17:39</p> <p>17 correspondence to Jennifer Seiple at Masters, 17:17:42</p> <p>18 and you had identified these pharmacies that 17:17:46</p> <p>19 appear in attachment 1, correct? 17:17:49</p> <p>20 A. Yes. 17:17:50</p> <p>21 Q. Okay. And he responds that "As 17:17:51</p> <p>22 you can see, the dates of termination predate 17:18:03</p> <p>23 your notification." 17:18:06</p> <p>24 Do you see that? 17:18:08</p> <p>25 A. I do. 17:18:08</p>	<p style="text-align: right;">Page 409</p> <p>1 Did I read that correctly? 17:19:23</p> <p>2 A. Yes. 17:19:23</p> <p>3 Q. So, again, is it accurate to 17:19:24</p> <p>4 state that Masters had identified one -- at 17:19:27</p> <p>5 least one year prior, in some instances, some 17:19:30</p> <p>6 pharmacies that were deemed to be 17:19:33</p> <p>7 problematic, sufficient to place them on 17:19:34</p> <p>8 their termination list before you were able 17:19:36</p> <p>9 to make that same determination? 17:19:39</p> <p>10 MR. O'CONNOR: Object to form. 17:19:40</p> <p>11 THE WITNESS: Yes. 17:19:41</p> <p>12 QUESTIONS BY MR. KO: 17:19:41</p> <p>13 Q. Okay. And earlier we had -- 17:19:42</p> <p>14 you had testified that one of the reasons why 17:19:46</p> <p>15 you had audited Masters was to review their 17:19:48</p> <p>16 SOM program, correct? 17:19:51</p> <p>17 A. Yes. 17:19:52</p> <p>18 Q. Okay. And yet through your 17:19:53</p> <p>19 review, you were unable to determine which 17:19:55</p> <p>20 pharmacies they placed on their termination 17:20:00</p> <p>21 list, correct? 17:20:02</p> <p>22 A. Correct. 17:20:03</p> <p>23 Q. Okay. Isn't that reflective of 17:20:04</p> <p>24 an inadequate audit on the part of 17:20:10</p> <p>25 Mallinckrodt? 17:20:12</p>

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1 MR. O'CONNOR: Object to form. 17:20:12
 2 THE WITNESS: No. 17:20:13
 3 QUESTIONS BY MR. KO: 17:20:13
 4 Q. Okay. Do you feel that had you 17:20:14
 5 asked Masters the simple question of which 17:20:16
 6 pharmacies they had placed on their do not 17:20:21
 7 ship list, you would have also understood 17:20:23
 8 that these pharmacies were problematic? 17:20:26
 9 A. I do not know. 17:20:31
 10 Q. Okay. Do you agree with me 17:20:32
 11 that had you asked that question in your 17:20:34
 12 audit, you would have learned that these 17:20:36
 13 pharmacies were problematic? 17:20:38
 14 A. If they would have provided 17:20:40
 15 this listing, yes. 17:20:42
 16 Q. Okay. Regardless of whether or 17:20:43
 17 not they provided the listing -- 17:20:45
 18 A. Uh-huh. 17:20:47
 19 Q. -- the purpose of your audit in 17:20:47
 20 late 2010 was to understand Masters' SOM 17:20:50
 21 program, was it not? 17:20:56
 22 A. Yes. 17:20:57
 23 Q. And you were doing an 17:20:57
 24 independent review? 17:20:58
 25 A. Yes, a Mallinckrodt review of 17:21:01

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1 their program, yes. 17:21:02
 2 Q. Right. 17:21:03
 3 And in connection with that 17:21:04
 4 review, did you ever ask them whether or not 17:21:05
 5 they had placed certain pharmacies on their 17:21:08
 6 do not ship list? 17:21:11
 7 A. I don't -- I don't know. I 17:21:11
 8 don't recall. 17:21:14
 9 Q. Okay. Had you asked that 17:21:14
 10 question, you would have certainly learned 17:21:15
 11 this information, correct? 17:21:18
 12 MR. O'CONNOR: Object to form. 17:21:18
 13 THE WITNESS: Perhaps. 17:21:19
 14 QUESTIONS BY MR. KO: 17:21:20
 15 Q. Okay. Sitting here today, is 17:21:20
 16 it reflective of an adequate audit if you 17:21:28
 17 didn't ask Masters whether or not they had 17:21:31
 18 any pharmacies on their termination list? 17:21:34
 19 MR. O'CONNOR: Object to form. 17:21:37
 20 THE WITNESS: No. 17:21:37
 21 QUESTIONS BY MR. KO: 17:21:38
 22 Q. So to be clear, not asking them 17:21:41
 23 whether or not they had pharmacies on their 17:21:45
 24 termination list is indicative of an 17:21:47
 25 inadequate audit, correct? 17:21:51

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1 MR. O'CONNOR: Object to form. 17:21:52
 2 THE WITNESS: I'm sorry, there 17:21:53
 3 were double negatives. Will you 17:21:55
 4 please restate? I'm sorry. 17:21:57
 5 QUESTIONS BY MR. KO: 17:21:58
 6 Q. Sorry, I have a bad habit of 17:21:58
 7 that. 17:22:02
 8 So not asking Masters whether 17:22:03
 9 or not they had pharmacies on their 17:22:04
 10 termination list is indicative of an 17:22:05
 11 inadequate audit, correct? 17:22:09
 12 MR. O'CONNOR: Object to form. 17:22:10
 13 THE WITNESS: I do not agree. 17:22:11
 14 QUESTIONS BY MR. KO: 17:22:12
 15 Q. You do not agree. 17:22:12
 16 Had you simply asked Masters 17:22:13
 17 whether or not certain pharmacies appeared on 17:22:19
 18 their do not ship list, you would have 17:22:21
 19 learned that certain pharmacies did in fact 17:22:23
 20 appear on that list, correct? 17:22:25
 21 MR. O'CONNOR: Objection. 17:22:27
 22 Asked and answered. 17:22:28
 23 THE WITNESS: I don't know if 17:22:28
 24 they would have given us this list. 17:22:30
 25

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1 QUESTIONS BY MR. KO: 17:22:33
 2 Q. Okay. But you don't recall 17:22:34
 3 ever asking that question? 17:22:35
 4 A. I do not. 17:22:36
 5 Q. Okay. Certainly if you had 17:22:37
 6 asked that question, you would have been able 17:22:39
 7 to determine whether or not certain 17:22:41
 8 pharmacies appeared on their do not ship 17:22:43
 9 list, correct? 17:22:45
 10 MR. O'CONNOR: Objection. 17:22:45
 11 Asked and answered. 17:22:46
 12 THE WITNESS: So, sir, I'll 17:22:46
 13 answer again. This whole Masters' 17:22:47
 14 event became quite adversarial. And I 17:22:51
 15 don't mean to be irreverent, because 17:22:55
 16 I'm under testimony, but this Wayne 17:22:57
 17 Corona, I expected to find a dead 17:22:58
 18 chicken on my porch. 17:23:00
 19 He called me, he hounded me, he 17:23:02
 20 was angry, angry about our decision, 17:23:04
 21 and so he was defending, I'm going to 17:23:06
 22 say, to Mallinckrodt Masters' SOM 17:23:10
 23 program with these series of 17:23:14
 24 communications. 17:23:15
 25

<p style="text-align: right;">Page 414</p> <p>1 QUESTIONS BY MR. KO: 17:23:15</p> <p>2 Q. Okay. Is it fair to say that 17:23:16</p> <p>3 Masters identified problematic pharmacies 17:23:17</p> <p>4 before you had identified them in your 17:23:24</p> <p>5 October 17, 2011 correspondence to them? 17:23:27</p> <p>6 A. Yes. 17:23:30</p> <p>7 MR. O'CONNOR: Object to form. 17:23:30</p> <p>8 THE WITNESS: According to this 17:23:31</p> <p>9 e-mail, yes. 17:23:32</p> <p>10 QUESTIONS BY MR. KO: 17:23:33</p> <p>11 Q. Okay. Do you -- had you had 17:23:33</p> <p>12 the information -- let's take Gulf Coast, for 17:23:39</p> <p>13 example. 17:23:42</p> <p>14 Do you see that -- by the way, 17:23:42</p> <p>15 do you recall Gulf Coast medical pharmacy? 17:23:46</p> <p>16 A. The names all run together. I 17:23:48</p> <p>17 do not. I'm sorry. 17:23:51</p> <p>18 Q. They were -- I believe that 17:23:51</p> <p>19 they were the subject of a DEA indictment, 17:23:53</p> <p>20 and they were a particularly problematic 17:23:55</p> <p>21 customer. 17:23:58</p> <p>22 But regardless, in -- as of 17:23:59</p> <p>23 October 28, 2010, Masters had placed Gulf 17:24:03</p> <p>24 Coast on their termination list, correct? 17:24:07</p> <p>25 MR. O'CONNOR: Object to form. 17:24:09</p>	<p style="text-align: right;">Page 416</p> <p>1 So -- I thank you for that clarification. 17:25:10</p> <p>2 So to be clear, if you obtain 17:25:11</p> <p>3 knowledge from a customer that they have 17:25:13</p> <p>4 placed a particularly pharmacy -- particular 17:25:16</p> <p>5 pharmacy on their do not ship list, you also 17:25:18</p> <p>6 would no longer honor chargeback requests 17:25:22</p> <p>7 from that particular distributor as it 17:25:26</p> <p>8 relates to pills shipped to that pharmacy, 17:25:29</p> <p>9 correct? 17:25:31</p> <p>10 A. Correct. 17:25:32</p> <p>11 Q. And it would have also been 17:25:33</p> <p>12 problematic to do so, right, because that 17:25:36</p> <p>13 particular pharmacy for a variety of reasons 17:25:38</p> <p>14 would have certain red flags, correct? 17:25:43</p> <p>15 MR. O'CONNOR: Object to form. 17:25:45</p> <p>16 THE Witness: Yes. 17:25:45</p> <p>17 QUESTIONS BY MR. KO: 17:25:47</p> <p>18 Q. And potentially that pharmacy 17:25:48</p> <p>19 would be engaged in diversion of prescription 17:25:49</p> <p>20 opioids, correct? 17:25:52</p> <p>21 MR. O'CONNOR: Object to form. 17:25:53</p> <p>22 THE WITNESS: Potentially. 17:25:53</p> <p>23 QUESTIONS BY MR. KO: 17:25:54</p> <p>24 Q. Okay. And so for each one of 17:25:55</p> <p>25 these pharmacies that are listed here that 17:25:58</p>
<p style="text-align: right;">Page 415</p> <p>1 THE WITNESS: Yes. 17:24:10</p> <p>2 QUESTIONS BY MR. KO: 17:24:14</p> <p>3 Q. And sitting here today, would 17:24:14</p> <p>4 you agree with me that if you had shipped 17:24:17</p> <p>5 pills to distributors that sold eventually to 17:24:20</p> <p>6 Gulf Coast after October 20, 2010, that would 17:24:25</p> <p>7 have been a problem, correct? 17:24:31</p> <p>8 MR. O'CONNOR: Object to form. 17:24:32</p> <p>9 THE WITNESS: Not a problem we 17:24:33</p> <p>10 were aware of. 17:24:37</p> <p>11 QUESTIONS BY MR. KO: 17:24:37</p> <p>12 Q. Certainly I understand that you 17:24:39</p> <p>13 may not have been aware of it, but is it -- 17:24:41</p> <p>14 is it reflective of an effective SOM program 17:24:46</p> <p>15 if you ship orders to a pharmacy that you 17:24:50</p> <p>16 know appear on your customer's termination 17:24:53</p> <p>17 list? 17:24:56</p> <p>18 MR. O'CONNOR: Object to form. 17:24:56</p> <p>19 THE WITNESS: If we know a 17:24:57</p> <p>20 customer -- if we know a pharmacy 17:24:58</p> <p>21 appears on our customer's termination 17:25:01</p> <p>22 list, we also discontinue honoring of 17:25:03</p> <p>23 chargebacks to that pharmacy. 17:25:07</p> <p>24 QUESTIONS BY MR. KO: 17:25:07</p> <p>25 Q. Okay. So that's helpful. 17:25:08</p>	<p style="text-align: right;">Page 417</p> <p>1 predate your correspondence on October 17th, 17:26:02</p> <p>2 you would agree with me that had you known 17:26:11</p> <p>3 from Masters that they were placed on their 17:26:13</p> <p>4 termination list, you would have also agreed 17:26:18</p> <p>5 that these pharmacies were problematic? 17:26:20</p> <p>6 MR. O'CONNOR: Object to form. 17:26:22</p> <p>7 THE WITNESS: Yes. 17:26:23</p> <p>8 QUESTIONS BY MR. KO: 17:26:23</p> <p>9 Q. Okay. And shipping orders -- 17:26:24</p> <p>10 and I understand you don't believe you knew 17:26:27</p> <p>11 at the time, but shipping orders to these 17:26:30</p> <p>12 pharmacies after they were placed on a 17:26:33</p> <p>13 termination list would not be indicative of 17:26:36</p> <p>14 an effective SOM program, correct? 17:26:38</p> <p>15 MR. O'CONNOR: Object to form. 17:26:40</p> <p>16 THE WITNESS: Correct. 17:26:40</p> <p>17 (Mallinckrodt-Harper Exhibit 30 17:27:03</p> <p>18 marked for identification.) 17:27:03</p> <p>19 QUESTIONS BY MR. KO: 17:27:03</p> <p>20 Q. Okay. I'm going to hand you a 17:27:04</p> <p>21 copy of what's being marked as Harper 17:27:04</p> <p>22 Exhibit 30. 17:27:07</p> <p>23 And for the record, this is a 17:27:10</p> <p>24 demonstrative based on chargeback information 17:27:12</p> <p>25 produced to us. And to be clear, it's not 17:27:15</p>

<p style="text-align: right;">Page 418</p> <p>1 any copy provided by your counsel or by 17:27:19</p> <p>2 Mallinckrodt but something that we have 17:27:24</p> <p>3 prepared. 17:27:25</p> <p>4 So Brooks Pharmacy was a 17:27:44</p> <p>5 pharmacy that appeared on your letter to all 17:27:47</p> <p>6 distributors, correct? 17:27:50</p> <p>7 A. Yes. 17:27:51</p> <p>8 Q. Including to Masters, correct? 17:27:51</p> <p>9 A. Yes. 17:27:53</p> <p>10 Q. And Masters had indicated to 17:27:53</p> <p>11 you that they had already placed Brooks on 17:27:58</p> <p>12 their termination list as of October 4, 2010, 17:27:59</p> <p>13 correct? 17:28:02</p> <p>14 A. Yes. 17:28:02</p> <p>15 Q. Okay. Based on this chart, it 17:28:03</p> <p>16 appears that several hundred thousand pills 17:28:09</p> <p>17 nevertheless shipped to Brooks Pharmacy from 17:28:11</p> <p>18 the period between October 4, 2010, and 17:28:13</p> <p>19 October 17, 2011, based on chargeback data 17:28:16</p> <p>20 that has been provided to us. 17:28:20</p> <p>21 Do you see that? 17:28:21</p> <p>22 A. So, yes, but may I ask what the 17:28:22</p> <p>23 unit of measure is here, please? 17:28:26</p> <p>24 Q. Those are total pills. 17:28:28</p> <p>25 A. Dosage units. 17:28:30</p>	<p style="text-align: right;">Page 420</p> <p>1 that Masters put Brooks Pharmacy on their do 17:29:20</p> <p>2 not ship list as of October 4, 2010, correct? 17:29:25</p> <p>3 MR. O'CONNOR: Object to form. 17:29:27</p> <p>4 MS. FIX MEYER: Object to form. 17:29:28</p> <p>5 THE WITNESS: If they would 17:29:29</p> <p>6 have given it to us. We had some 17:29:30</p> <p>7 customers that declined to provide 17:29:31</p> <p>8 that information, unfortunately. 17:29:32</p> <p>9 QUESTIONS BY MR. KO: 17:29:35</p> <p>10 Q. Now -- but we had spoken about 17:29:35</p> <p>11 an audit before, but you performed an on-site 17:29:36</p> <p>12 audit of Masters, correct? 17:29:41</p> <p>13 A. Yes. 17:29:42</p> <p>14 Q. And that on-site audit was all 17:29:42</p> <p>15 day, I believe? 17:29:44</p> <p>16 A. Yes. 17:29:44</p> <p>17 Q. Okay. And again, sitting here 17:29:46</p> <p>18 today, do you believe that shipments made to 17:29:52</p> <p>19 a -- an end user after one of your customers 17:29:53</p> <p>20 puts them on the termination list is 17:30:00</p> <p>21 indicative of an effective suspicious order 17:30:02</p> <p>22 monitoring program? 17:30:04</p> <p>23 MR. O'CONNOR: Object to form. 17:30:05</p> <p>24 MS. FIX MEYER: Object to 17:30:06</p> <p>25 foundation. 17:30:07</p>
<p style="text-align: right;">Page 419</p> <p>1 Q. Dosage units. 17:28:31</p> <p>2 A. All right. All right. Thank 17:28:32</p> <p>3 you. 17:28:32</p> <p>4 Q. So hundreds of thousands of 17:28:32</p> <p>5 dosage units/pills are delivered to Brooks 17:28:35</p> <p>6 Pharmacy through Cardinal between October 4, 17:28:39</p> <p>7 2010, and October 17, 2011, correct? 17:28:42</p> <p>8 MR. O'CONNOR: Object to form. 17:28:45</p> <p>9 MS. FIX MEYER: Object to form. 17:28:46</p> <p>10 THE WITNESS: The graph 17:28:47</p> <p>11 indicates that Cardinal sold this 17:28:49</p> <p>12 product to that downstream customer. 17:28:52</p> <p>13 MS. FIX MEYER: Object to the 17:28:55</p> <p>14 form. Foundation. 17:28:57</p> <p>15 QUESTIONS BY MR. KO: 17:28:58</p> <p>16 Q. You can answer the question. 17:28:59</p> <p>17 She's just lodging her objection for the 17:29:00</p> <p>18 record. 17:29:02</p> <p>19 A. Okay. So if I'm to believe the 17:29:02</p> <p>20 graph is gospel, yes. It appears that 17:29:04</p> <p>21 Cardinal told that number of dosage units to 17:29:06</p> <p>22 Brooks Pharmacy. 17:29:10</p> <p>23 Q. And again, had you asked 17:29:10</p> <p>24 Masters which pharmacies appeared on their 17:29:11</p> <p>25 termination list, you would have understood 17:29:19</p>	<p style="text-align: right;">Page 421</p> <p>1 THE WITNESS: If we are aware 17:30:07</p> <p>2 of it? 17:30:08</p> <p>3 QUESTIONS BY MR. KO: 17:30:09</p> <p>4 Q. Yes. 17:30:09</p> <p>5 A. So, yes, but not if we're not 17:30:10</p> <p>6 aware of it. 17:30:12</p> <p>7 Q. Okay. But you had the ability, 17:30:13</p> <p>8 and as reflected by this chargeback data that 17:30:15</p> <p>9 you had acquired, you had the ability to 17:30:19</p> <p>10 understand where your -- the details of where 17:30:22</p> <p>11 your pills were going after you shipped them 17:30:24</p> <p>12 to the distributor, correct? 17:30:26</p> <p>13 MR. O'CONNOR: Object to form. 17:30:27</p> <p>14 THE WITNESS: Yes. 17:30:29</p> <p>15 QUESTIONS BY MR. KO: 17:30:29</p> <p>16 Q. Okay. And by the way, as we 17:30:29</p> <p>17 discussed before, you did an audit of 17:30:35</p> <p>18 Cardinal's SOM program as well, correct? 17:30:38</p> <p>19 A. Yes. 17:30:40</p> <p>20 Q. And so would you agree that 17:30:40</p> <p>21 Cardinal could have asked the same question 17:30:41</p> <p>22 as well? 17:30:43</p> <p>23 MR. O'CONNOR: Object to form. 17:30:44</p> <p>24 MS. FIX MEYER: Objection to 17:30:44</p> <p>25 foundation. Object to form. 17:30:45</p>

<p style="text-align: right;">Page 422</p> <p>1 THE WITNESS: I don't know the 17:30:46</p> <p>2 specifics of Cardinal's interaction 17:30:47</p> <p>3 with the pharmacies or with their 17:30:49</p> <p>4 customers, so I don't know that -- I 17:30:51</p> <p>5 cannot answer. 17:30:52</p> <p>6 QUESTIONS BY MR. KO: 17:30:53</p> <p>7 Q. Sure. Fair enough. 17:30:53</p> <p>8 Regardless, is it accurate to 17:30:54</p> <p>9 state, assuming that these numbers are true, 17:30:59</p> <p>10 that Mallinckrodt shipped hundreds of 17:31:00</p> <p>11 thousands of pills to customers, including 17:31:05</p> <p>12 Cardinal, that eventually shipped to Brooks 17:31:10</p> <p>13 Pharmacy after they were placed on the 17:31:13</p> <p>14 termination list by Masters? 17:31:16</p> <p>15 MR. O'CONNOR: Object to form. 17:31:18</p> <p>16 MS. FIX MEYER: Object to form. 17:31:19</p> <p>17 Object to foundation. 17:31:22</p> <p>18 THE WITNESS: Yes. 17:31:23</p> <p>19 QUESTIONS BY MR. KO: 17:31:23</p> <p>20 Q. Okay. Set that aside. 17:31:24</p> <p>21 (Mallinckrodt-Harper Exhibit 31 17:31:48</p> <p>22 marked for identification.) 17:31:49</p> <p>23 QUESTIONS BY MR. KO: 17:31:49</p> <p>24 Q. I'm going to hand you just 17:31:50</p> <p>25 another quick copy of some data we were able 17:31:52</p>	<p style="text-align: right;">Page 424</p> <p>1 And it appears that based on 17:32:50</p> <p>2 the chargeback data that you had access to, 17:32:53</p> <p>3 Mallinckrodt had shipped to distributors that 17:32:57</p> <p>4 shipped to Island Drug in the June 3, 2010, 17:32:59</p> <p>5 through October 17, 2011 time period, 17:33:03</p> <p>6 correct? 17:33:05</p> <p>7 A. Yes. 17:33:06</p> <p>8 Q. Okay. And similar to Brooks 17:33:06</p> <p>9 Pharmacy, would you agree with me that 17:33:10</p> <p>10 shipping drugs to customers who shipped to 17:33:13</p> <p>11 Island Drug after they appeared on a 17:33:19</p> <p>12 termination list would be indicative of an 17:33:22</p> <p>13 inadequate SOM program? 17:33:26</p> <p>14 MR. O'CONNOR: Object to form. 17:33:28</p> <p>15 THE WITNESS: No. 17:33:29</p> <p>16 QUESTIONS BY MR. KO: 17:33:29</p> <p>17 Q. You would not. 17:33:30</p> <p>18 A. I would not. 17:33:31</p> <p>19 Q. Okay. You had -- as we 17:33:33</p> <p>20 discussed before, you had access to this 17:33:38</p> <p>21 chargeback data, correct? 17:33:40</p> <p>22 A. Yes. 17:33:41</p> <p>23 Q. Okay. And you also performed 17:33:42</p> <p>24 an on-site audit of Masters, correct? 17:33:45</p> <p>25 A. Yes. 17:33:48</p>
<p style="text-align: right;">Page 423</p> <p>1 to pull from the chargeback information 17:31:54</p> <p>2 produced by your counsel, and that is -- I'm 17:31:55</p> <p>3 sorry. I'm handing you a copy of what will 17:32:00</p> <p>4 be marked as Harper Exhibit 31. 17:32:02</p> <p>5 MR. O'CONNOR: So, again, 17:32:04</p> <p>6 Counsel, this is a document you 17:32:06</p> <p>7 created? 17:32:07</p> <p>8 MR. KO: This is a 17:32:07</p> <p>9 demonstrative exhibit created by us, 17:32:08</p> <p>10 correct, based on the Excel files 17:32:10</p> <p>11 produced to us. 17:32:13</p> <p>12 THE WITNESS: Yes, I know. I'm 17:32:13</p> <p>13 just verifying it against that list, 17:32:13</p> <p>14 yes. Okay. 17:32:16</p> <p>15 QUESTIONS BY MR. KO: 17:32:18</p> <p>16 Q. So here, I'll -- this is 17:32:18</p> <p>17 similar to Exhibit 30. This is a chart that 17:32:19</p> <p>18 shows pills that were shipped to Island Drug 17:32:23</p> <p>19 by your customers from the January 2010 to 17:32:28</p> <p>20 September 2011 time period. 17:32:33</p> <p>21 And in particular, there is 17:32:35</p> <p>22 again -- on the left-hand side the numbers 17:32:44</p> <p>23 are reflective of dosage units -- 17:32:45</p> <p>24 A. Thank you. 17:32:47</p> <p>25 Q. -- slash pills. 17:32:47</p>	<p style="text-align: right;">Page 425</p> <p>1 Q. And so assuming you had asked 17:33:48</p> <p>2 them the question of whether or not Masters 17:33:50</p> <p>3 had placed Island Drug on their do not ship 17:33:53</p> <p>4 list, would you agree with me that it would 17:33:57</p> <p>5 be indicative of an inadequate SOM program if 17:34:00</p> <p>6 you continued to ship drugs to customers who 17:34:05</p> <p>7 shipped to Island Drug? 17:34:08</p> <p>8 MR. O'CONNOR: Object to form. 17:34:09</p> <p>9 THE WITNESS: So the premise is 17:34:09</p> <p>10 that we would have asked Masters for 17:34:13</p> <p>11 their do not ship list, and there's no 17:34:15</p> <p>12 assurance whether they would or would 17:34:20</p> <p>13 not have provided it. But if we would 17:34:21</p> <p>14 have known which customers Masters had 17:34:24</p> <p>15 terminated, we would have put them on 17:34:26</p> <p>16 our chargeback restriction list. 17:34:28</p> <p>17 QUESTIONS BY MR. KO: 17:34:29</p> <p>18 Q. And you would have also -- you 17:34:30</p> <p>19 would have also determined that you should 17:34:34</p> <p>20 stop shipping orders to customers that sell 17:34:36</p> <p>21 to that particular pharmacy as well, correct? 17:34:38</p> <p>22 MR. O'CONNOR: Object to form. 17:34:40</p> <p>23 THE WITNESS: Stop -- there's a 17:34:40</p> <p>24 distinction there. Stop -- stop the 17:34:43</p> <p>25 payment of chargebacks. We cannot 17:34:45</p>

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1	totally stop the shipment of	17:34:48	1	the time of their suspension.	17:47:06
2	Mallinckrodt product to a pharmacy.	17:34:49	2	QUESTIONS BY MR. KO:	17:47:07
3	QUESTIONS BY MR. KO:	17:34:51	3	Q. All right. And you weren't	17:47:07
4	Q. Okay. You would recommend	17:34:51	4	aware of the total amount of oxy 15 and	17:47:09
5	to -- one of the reasons why you would not	17:34:57	5	oxy 30 pills they sent to end users,	17:47:11
6	honor the chargeback request is to notify the	17:34:58	6	including pain clinics and pharmacies,	17:47:17
7	distributor that you would not be paying them	17:35:01	7	correct?	17:47:20
8	the difference between the amount that they	17:35:03	8	A. So I realize I'm under oath,	17:47:20
9	agreed upon with you and the subsequent price	17:35:07	9	and I saw that data that I -- you said I	17:47:23
10	that they're receiving for the drug in the	17:35:10	10	extracted, and I don't know the timing of	17:47:25
11	downstream transaction, correct?	17:35:12	11	that in correlation to when their license was	17:47:27
12	A. Yes.	17:35:13	12	suspend, if it was before or after.	17:47:30
13	Q. Okay. So it would -- in other	17:35:13	13	Q. And I'll represent to you it	17:47:31
14	words, it would alert the distributor -- it	17:35:14	14	was before their license was suspended.	17:47:32
15	would alert the distributor to the	17:35:23	15	And I am just simply asking --	17:47:34
16	possibility that that particular pharmacy was	17:35:25	16	A. Okay.	17:47:36
17	problematic, correct?	17:35:26	17	Q. -- whether or not at any point	17:47:36
18	MR. O'CONNOR: Object to form.	17:35:27	18	in time you became aware of how many orders	17:47:38
19	THE WITNESS: Yes.	17:35:27	19	of oxy 15 or oxy 30s they had sent to pain	17:47:41
20	MR. KO: Okay. You can set	17:35:29	20	clinics, pharmacies or medical doctors.	17:47:45
21	this aside.	17:35:36	21	A. In Florida?	17:47:47
22	Why don't we take a quick break	17:35:41	22	Q. At any time.	17:47:50
23	and...	17:35:43	23	A. Anywhere?	17:47:50
24	VIDEOGRAPHER: We are going off	17:35:45	24	Q. Anywhere.	17:47:51
25	the record at 5:35 p m.	17:35:46	25	A. Clearly, I must have because --	17:47:52
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1	(Off the record at 5:35 p.m.)	17:35:48	1	but -- was that chargeback report unique to	17:47:55
2	VIDEOGRAPHER: We are back on	17:46:10	2	Florida?	17:47:58
3	the record at 5:46 p m.	17:46:12	3	I'm sorry.	17:48:00
4	QUESTIONS BY MR. KO:	17:46:14	4	Q. No, that's okay.	17:48:00
5	Q. Okay. Thank you again,	17:46:14	5	A. I'm so sorry. I'm getting	17:48:01
6	Ms. Harper. As the court reporter indicated,	17:46:17	6	mixed up here.	17:48:03
7	we have about approximately 25 minutes, and I	17:46:18	7	Q. No, it's okay.	17:48:03
8	appreciate your patience thus far today.	17:46:20	8	Sitting here today, would you	17:48:05
9	Going back to our discussion	17:46:22	9	agree with me that it would be suspicious for	17:48:20
10	about Harvard, putting aside the details of	17:46:26	10	Harvard Drug to sell oxy 15s and oxy 30s to	17:48:21
11	how that chart was created or the information	17:46:32	11	pain clinics, pharmacies and medical doctors	17:48:25
12	that you had requested through chargeback	17:46:37	12	through a veterinary supply company?	17:48:28
13	reports, sitting here today, you weren't	17:46:39	13	MR. O'CONNOR: Object to form.	17:48:32
14	aware that Harvard Drug had sent, on 12,486	17:46:43	14	THE WITNESS: I don't know	17:48:33
15	occasions, oxy 15 and 30 to pain clinics,	17:46:49	15	their corporate structure, so that	17:48:34
16	pharmacies and medical doctors; is that	17:46:53	16	would have been something, if it had	17:48:36
17	accurate?	17:46:55	17	come to our attention, we would have	17:48:38
18	MR. O'CONNOR: Object to form.	17:46:55	18	asked Harvard more questions about	17:48:41
19	THE WITNESS: I'm not aware or	17:46:55	19	their -- their business model.	17:48:43
20	I wasn't aware? I'm sorry.	17:46:58	20	QUESTIONS BY MR. KO:	17:48:44
21	QUESTIONS BY MR. KO:	17:47:00	21	Q. Sure.	17:48:44
22	Q. Let's take you weren't aware at	17:47:00	22	As a general matter, do you	17:48:45
23	the time.	17:47:03	23	recall any instances in which you sold	17:48:46
24	MR. O'CONNOR: Same objection.	17:47:03	24	prescription opioids to vet companies?	17:48:48
25	THE WITNESS: I wasn't aware at	17:47:04	25	MR. O'CONNOR: Object to form.	17:48:51

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1 THE WITNESS: There may have 17:48:51
2 been one. 17:48:55
3 QUESTIONS BY MR. KO: 17:48:55
4 Q. Okay. And what -- which 17:48:55
5 instance was that, and when did that occur? 17:48:57
6 A. It was -- I don't know the 17:48:59
7 date. I remember a customer -- no, strike 17:49:01
8 that, please. 17:49:06
9 I'm not aware of any sales to 17:49:06
10 veterinary companies. 17:49:09
11 Q. Are you aware of any legitimate 17:49:10
12 medical reason for Mallinckrodt to ship pills 17:49:13
13 to veterinary clinics? And by "pills" I mean 17:49:19
14 particularly prescription opioids. 17:49:25
15 MR. O'CONNOR: Object to form. 17:49:26
16 THE WITNESS: So through some 17:49:27
17 event, I don't remember why, we 17:49:31
18 checked with a couple vets, and indeed 17:49:33
19 there are times when doctors prescribe 17:49:36
20 opioids for pain in animals. 17:49:38
21 QUESTIONS BY MR. KO: 17:49:41
22 Q. Would you agree with me that 17:49:42
23 that would be a rare occurrence? 17:49:42
24 MR. O'CONNOR: Object to form. 17:49:44
25 THE WITNESS: I don't know the 17:49:45

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1 frequency. 17:49:45
2 (Mallinckrodt-Harper Exhibit 32 17:49:57
3 marked for identification.) 17:49:46
4 QUESTIONS BY MR. KO: 17:49:46
5 Q. Okay. I'm going to hand you a 17:49:46
6 copy of what's going to be marked as 17:49:52
7 Exhibit 32. 17:49:56
8 And for the record, this is -- 17:49:59
9 ends in Bates 269399. 17:50:02
10 Ms. Harper, do you recognize 17:50:17
11 this memo from Howard Davis to you dated 17:50:18
12 November 2, 2010? 17:50:24
13 A. I do. 17:50:24
14 Q. Okay. And Howard Davis, as we 17:50:27
15 had discussed before, was a consultant you 17:50:29
16 had retained in connection with your SOM 17:50:31
17 program; is that correct? 17:50:35
18 A. Yes. 17:50:36
19 Q. Okay. And Howard Davis was 17:50:37
20 ex-DEA? 17:50:40
21 A. Yes. 17:50:41
22 Q. And I believe he was, in 17:50:41
23 particular, a DRM. 17:50:43
24 Do I understand -- 17:50:45
25 A. DPM. 17:50:46

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1 Q. Sorry, a DPM? 17:50:47
2 A. Yes. 17:50:47
3 Q. Do I understand correctly? 17:50:50
4 A. Yes. 17:50:50
5 Q. And what does DPM stand for? 17:50:51
6 A. Diversion program manager. 17:50:53
7 Q. Okay. And he had spent some 17:50:53
8 amount of years at the DEA as a DPM, correct? 17:50:55
9 And I believe in Atlanta? 17:50:56
10 A. He was in Atlanta when he 17:50:57
11 retired. Prior to that, he was our group 17:51:01
12 supervisor in St. Louis, so I don't know the 17:51:03
13 date of his promotion. 17:51:06
14 Q. Okay. So before -- are you 17:51:07
15 saying before he went to DEA, he was an 17:51:08
16 employee of Mallinckrodt? 17:51:12
17 A. No, I'm sorry. I beg your 17:51:13
18 pardon. 17:51:15
19 For St. Louis DEA he was 17:51:16
20 diversion group supervisor, and then he was 17:51:18
21 promoted to diversion program manager and 17:51:20
22 went to Atlanta, but I'm not certain of 17:51:23
23 the -- the timing of his move to Atlanta. 17:51:25
24 Q. I see. 17:51:28
25 So this is in connection 17:51:30

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1 with -- this is when he was at DEA, correct? 17:51:31
2 A. Yes, sir. 17:51:33
3 Q. Okay. And at some point in the 17:51:34
4 2010 time period, Mallinckrodt retained 17:51:36
5 Mr. Davis, correct? 17:51:39
6 A. Yes. 17:51:40
7 Q. And they retained him 17:51:41
8 specifically to examine the then existing 17:51:43
9 suspicious order monitoring program? 17:51:47
10 A. Yes. 17:51:47
11 Q. Okay. And so I know he was 17:51:48
12 retained for a brief period of time, but do 17:51:53
13 you recall how long his engagement lasted? 17:51:58
14 A. A couple of months, at most. 17:52:02
15 Q. Okay. Now, this memo, is it 17:52:07
16 accurate to describe it is his overview of 17:52:08
17 the suspicious order monitoring program based 17:52:17
18 on his review? Is that fair to say? 17:52:19
19 A. Yes, he was reviewing one 17:52:22
20 particular procedure. 17:52:24
21 Q. Okay. 17:52:25
22 A. Yes. 17:52:25
23 Q. And the procedure is consistent 17:52:25
24 with the formal documents we were referring 17:52:28
25 to earlier that you were in charge of 17:52:29

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1 drafting that outlined the policies and 17:52:32
2 procedures Mallinckrodt would follow to 17:52:37
3 identify potentially suspicious orders, 17:52:38
4 correct? 17:52:40
5 MR. O'CONNOR: Object to form. 17:52:40
6 THE WITNESS: Yes. 17:52:41
7 QUESTIONS BY MR. KO: 17:52:41
8 Q. Okay. And in his review of 17:52:41
9 this particular draft of the suspicious order 17:52:45
10 monitoring program -- actually, let's take a 17:52:50
11 step back. 17:52:57
12 During the time that you were 17:52:57
13 drafting and revising these policies, you had 17:53:01
14 previously testified that you were still 17:53:04
15 utilizing a suspicious order monitoring 17:53:08
16 program, correct? 17:53:10
17 A. Yes. 17:53:11
18 Q. And with the suspicious order 17:53:12
19 monitoring program being utilized during a 17:53:16
20 particular time period between 2008 and 2012, 17:53:19
21 would it be reflective of a draft policy that 17:53:23
22 you are writing or would it be reflective of 17:53:27
23 some other policy? 17:53:32
24 MR. O'CONNOR: Object to form. 17:53:34
25 THE WITNESS: We have a 17:53:34

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1 document management system, and 17:53:37
2 then -- so after all the approvals, 17:53:43
3 it's housed there and it's considered 17:53:45
4 a formal policy. However, DEA 17:53:47
5 compliance did not use that system. 17:53:50
6 So indeed this controlled 17:53:52
7 substance compliance 3.0 was in draft 17:53:55
8 form for a while, and I do not know if 17:53:57
9 it was finalized, but we were 17:54:00
10 operating by it. 17:54:02
11 QUESTIONS BY MR. KO: 17:54:02
12 Q. Right. Okay. And that's 17:54:03
13 helpful. 17:54:05
14 So as you prepared drafts, 17:54:05
15 whatever operative draft that you were 17:54:07
16 working on at the time was also the policy 17:54:10
17 that you would follow with respect to 17:54:15
18 Mallinckrodt's suspicious order monitoring 17:54:16
19 obligations, correct? 17:54:18
20 A. Correct. 17:54:19
21 Q. Okay. Now, he -- Mr. Davis 17:54:20
22 reports to you, as we had discussed before, 17:54:33
23 his evaluation of Mallinckrodt's suspicious 17:54:39
24 order monitoring program at the time. And in 17:54:44
25 particular, I want to focus on the portion in 17:54:45

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1 which he says, quote, "Federal Register 17:54:56
2 Notices published as early as 2007, 72 17:54:59
3 Federal Register 36487, state specifically 17:55:02
4 that using formulas that rely on percentages 17:55:05
5 or averages over time has been determined, by 17:55:07
6 the DEA, to be insufficient." 17:55:10
7 Did I read that correctly? 17:55:12
8 A. Yes. 17:55:14
9 Q. Okay. And the Federal Register 17:55:18
10 that he's referring to that's been published 17:55:21
11 as early as 2007, I believe that's also 17:55:24
12 reference to the Southwood notice; is that 17:55:26
13 correct? 17:55:27
14 A. I don't know for certain, but 17:55:27
15 if -- 17:55:29
16 Q. Okay. 17:55:30
17 A. Yes, if you say so, yes. 17:55:31
18 Q. Setting aside which particular 17:55:32
19 Federal Register that refers to, he reports 17:55:35
20 to you as of November 2, 2010, that it is in 17:55:37
21 fact his belief that a suspicious order 17:55:42
22 monitoring program that uses formulas to rely 17:55:48
23 on percentages or averages over time would be 17:55:49
24 insufficient, correct? 17:55:52
25 MR. O'CONNOR: Object to form. 17:55:53

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1 THE WITNESS: Those are the 17:55:54
2 statements he made, yes. 17:55:55
3 QUESTIONS BY MR. KO: 17:56:15
4 Q. Okay. He goes on to state that 17:56:15
5 "an order must not be processed and filled if 17:56:17
6 it is either suspicious or excessive." 17:56:21
7 Do you see that? 17:56:22
8 A. Yes. 17:56:23
9 Q. "The existing SOP excels to 17:56:23
10 meet this requirement through a specific 17:56:25
11 evaluation process; however, the numeric 17:56:28
12 formula is problematic. For example, should 17:56:32
13 an occasion arise where an order is three 17:56:32
14 times over the historical average for that 17:56:35
15 customer in item, or in a situation where the 17:56:36
16 order meets but does not exceed the 3X 17:56:38
17 criteria, it would theoretically be filled 17:56:42
18 through normal processing without further 17:56:44
19 question. In doing so, in certain cases and 17:56:46
20 as noted in recent immediate suspensions of 17:56:50
21 other large-scale DEA registrants, which are 17:56:53
22 all a matter of public record, Mallinckrodt 17:56:56
23 would be unnecessarily exposing itself to 17:56:58
24 potential liability." 17:57:00
25 Did I read that correctly? 17:57:02

<p style="text-align: right;">Page 438</p> <p>1 A. Yes. 17:57:02</p> <p>2 Q. Okay. And the 3X criteria that 17:57:03</p> <p>3 he's referring to here is the 3X metric that 17:57:05</p> <p>4 we had discussed before, correct? 17:57:09</p> <p>5 A. Yes. 17:57:10</p> <p>6 Q. Okay. And is it accurate to 17:57:11</p> <p>7 say that as of November 2, 2010, he is 17:57:14</p> <p>8 expressing the view that reliance on a 17:57:17</p> <p>9 numeric formula such as a 3X criteria could 17:57:20</p> <p>10 potentially expose Mallinckrodt to a 17:57:24</p> <p>11 liability? Correct? 17:57:27</p> <p>12 A. Yes. 17:57:27</p> <p>13 Q. And in fact, in an example we 17:57:28</p> <p>14 went over -- or an e-mail we went over 17:57:29</p> <p>15 earlier today, we discussed the fact that 17:57:31</p> <p>16 Mallinckrodt's 2X or 3X formula with respect 17:57:36</p> <p>17 to Harvard or Sunrise did not necessarily 17:57:40</p> <p>18 trigger a suspicious order, correct? 17:57:44</p> <p>19 Because those orders did not -- 17:57:48</p> <p>20 were not triggered as a result of the 17:57:50</p> <p>21 peculiar order system in place, correct? 17:57:53</p> <p>22 MR. O'CONNOR: Object to form. 17:57:54</p> <p>23 THE WITNESS: Correct. 17:57:54</p> <p>24 QUESTIONS BY MR. KO: 17:57:55</p> <p>25 Q. Okay. And so it's safe to say 17:57:55</p>	<p style="text-align: right;">Page 440</p> <p>1 QUESTIONS BY MR. KO: 17:58:58</p> <p>2 Q. I'm just simply asking whether 17:58:59</p> <p>3 or not you determined that there were 17:59:00</p> <p>4 instances, prior to 2000 -- November 2, 2010, 17:59:01</p> <p>5 in which you discovered that you were 17:59:07</p> <p>6 shipping suspicious orders based on a 17:59:09</p> <p>7 peculiar order algorithm that was in place at 17:59:14</p> <p>8 that time. 17:59:17</p> <p>9 MR. O'CONNOR: Same objection. 17:59:18</p> <p>10 THE WITNESS: The algorithm 17:59:18</p> <p>11 points to orders that need to be 17:59:20</p> <p>12 investigated further and does not 17:59:23</p> <p>13 necessarily conclude in and of itself 17:59:26</p> <p>14 that the order is suspicious. 17:59:28</p> <p>15 QUESTIONS BY MR. KO: 17:59:30</p> <p>16 Q. Right. 17:59:31</p> <p>17 And I -- I see where the 17:59:31</p> <p>18 confusion is, because I'm putting a label on 17:59:32</p> <p>19 a particular order, so let me try it this 17:59:34</p> <p>20 way. 17:59:36</p> <p>21 A. All right. 17:59:36</p> <p>22 Q. In the e-mail that you had 17:59:37</p> <p>23 drafted to Eileen Spaulding that we went over 17:59:42</p> <p>24 earlier today in which you said that no 17:59:45</p> <p>25 orders -- no peculiar orders had risen to the 17:59:50</p>
<p style="text-align: right;">Page 439</p> <p>1 that prior to the date of this memorandum 17:57:59</p> <p>2 there were, in fact, instances in which you 17:58:03</p> <p>3 later discovered that you may have been 17:58:05</p> <p>4 shipping certain suspicious orders to 17:58:09</p> <p>5 distributors because you were utilizing this 17:58:12</p> <p>6 peculiar order algorithm? 17:58:16</p> <p>7 MR. O'CONNOR: Object to form. 17:58:18</p> <p>8 THE WITNESS: Can you restate 17:58:18</p> <p>9 that question, please? 17:58:24</p> <p>10 QUESTIONS BY MR. KO: 17:58:25</p> <p>11 Q. Sure. Let me try -- 17:58:25</p> <p>12 A. Okay. 17:58:27</p> <p>13 Q. -- again. 17:58:27</p> <p>14 Prior to November 2, 2010 -- 17:58:29</p> <p>15 A. All right. 17:58:33</p> <p>16 Q. -- it's safe to say that there 17:58:34</p> <p>17 were instances in which you later discovered 17:58:37</p> <p>18 that you have -- you were shipping suspicious 17:58:41</p> <p>19 orders to distributors because you were 17:58:45</p> <p>20 utilizing a 2X or 3X peculiar order 17:58:47</p> <p>21 algorithm? 17:58:51</p> <p>22 MR. O'CONNOR: Object to form. 17:58:52</p> <p>23 THE WITNESS: So the question 17:58:52</p> <p>24 is, is that problematic? 17:58:55</p> <p>25</p>	<p style="text-align: right;">Page 441</p> <p>1 level of suspicious, you also -- do you 17:59:53</p> <p>2 recall also referencing Harvard and Sunrise? 17:59:56</p> <p>3 MR. O'CONNOR: Object to form. 17:59:58</p> <p>4 THE WITNESS: Yes. Yes. 17:59:59</p> <p>5 QUESTIONS BY MR. KO: 17:59:59</p> <p>6 Q. And you specifically reference 18:00:00</p> <p>7 Harvard and Sunrise because you are saying 18:00:02</p> <p>8 that those were instances in which the 18:00:05</p> <p>9 peculiar order algorithm did not flag orders 18:00:09</p> <p>10 to them that were potentially suspicious. 18:00:13</p> <p>11 Is that accurate to say? 18:00:18</p> <p>12 A. Correct. 18:00:19</p> <p>13 Q. Okay. And so applied to this 18:00:20</p> <p>14 memorandum, I am asking you to confirm that 18:00:26</p> <p>15 prior to November 2, 2010, there were in fact 18:00:29</p> <p>16 instances in which you shipped potentially 18:00:36</p> <p>17 suspicious orders because you were utilizing 18:00:38</p> <p>18 a peculiar order algorithm that relied on the 18:00:41</p> <p>19 numeric formula. 18:00:45</p> <p>20 MR. O'CONNOR: Object to form. 18:00:47</p> <p>21 THE WITNESS: We shipped orders 18:00:48</p> <p>22 that would have been further 18:00:53</p> <p>23 investigated if the algorithm was 18:00:56</p> <p>24 different, but I can't conclude that 18:00:58</p> <p>25 we shipped suspicious orders because 18:01:00</p>

<p style="text-align: right;">Page 442</p> <p>1 it's my belief that we have never 18:01:01</p> <p>2 shipped a suspicious order. 18:01:05</p> <p>3 QUESTIONS BY MR. KO: 18:01:05</p> <p>4 Q. For what time period? 18:01:06</p> <p>5 A. Ever. 18:01:07</p> <p>6 Q. Okay. So your testimony here 18:01:11</p> <p>7 today is that you believe Mallinckrodt has 18:01:13</p> <p>8 never shipped a suspicious order? 18:01:15</p> <p>9 A. Yes. 18:01:16</p> <p>10 Q. Okay. And that's 18:01:18</p> <p>11 notwithstanding the settlement that 18:01:19</p> <p>12 Mallinckrodt had entered into with the DOJ 18:01:22</p> <p>13 regarding its suspicious order monitoring 18:01:24</p> <p>14 activities? 18:01:25</p> <p>15 A. Correct. 18:01:26</p> <p>16 Q. Okay. And that's 18:01:31</p> <p>17 notwithstanding the fact that the DOJ has 18:01:31</p> <p>18 alleged, and Mallinckrodt has in fact 18:01:38</p> <p>19 admitted in the DOJ agreement, that at 18:01:40</p> <p>20 certain points in time in 2008 through 2012 18:01:43</p> <p>21 Mallinckrodt did not have an adequate 18:01:46</p> <p>22 suspicious order monitoring system? 18:01:49</p> <p>23 MR. O'CONNOR: Object to form. 18:01:49</p> <p>24 THE WITNESS: I -- I don't -- I 18:01:50</p> <p>25 don't recall the MOA language. 18:01:56</p>	<p style="text-align: right;">Page 444</p> <p>1 subsequently shipped. 18:02:41</p> <p>2 Q. Got it. Understood. 18:02:41</p> <p>3 So from -- is it your testimony 18:02:43</p> <p>4 today that from 2008 to present, Mallinckrodt 18:02:48</p> <p>5 has not shipped a single suspicious order? 18:02:50</p> <p>6 A. Yes. When we talk about 18:02:54</p> <p>7 suspicious orders, direct orders to our 18:02:56</p> <p>8 customers. 18:03:00</p> <p>9 Q. Okay. Let's take -- you can 18:03:00</p> <p>10 set that aside. 18:03:15</p> <p>11 I hand you a copy of what will 18:03:19</p> <p>12 be marked as Harper Exhibit 33. 18:03:20</p> <p>13 MR. KO: And for the record, 18:03:23</p> <p>14 this is Bates -- ends in Bates 485740. 18:03:24</p> <p>15 (Mallinckrodt-Harper Exhibit 33 18:03:28</p> <p>16 marked for identification.) 18:03:29</p> <p>17 QUESTIONS BY MR. KO: 18:03:29</p> <p>18 Q. Do you recognize that e-mail, 18:03:41</p> <p>19 Ms. Harper? 18:03:44</p> <p>20 A. No, I don't, so I'm going to 18:03:45</p> <p>21 read it, please -- 18:03:52</p> <p>22 Q. Sure. 18:03:52</p> <p>23 A. -- because -- yeah. Okay. 18:03:53</p> <p>24 Q. In terms of the September 9, 18:04:40</p> <p>25 2010 e-mail that you drafted to James Parker, 18:04:47</p>
<p style="text-align: right;">Page 443</p> <p>1 QUESTIONS BY MR. KO: 18:01:57</p> <p>2 Q. I guess what I'm trying to ask 18:01:57</p> <p>3 you is, I understand that -- well, let's take 18:01:59</p> <p>4 a step back. 18:02:03</p> <p>5 I believe you testified earlier 18:02:04</p> <p>6 today that at least prior to 2008 there were 18:02:05</p> <p>7 at least ten instances, somewhere between one 18:02:09</p> <p>8 and ten instances, in which suspicious orders 18:02:14</p> <p>9 were reported to the DEA. 18:02:17</p> <p>10 Was that correct? 18:02:18</p> <p>11 MR. O'CONNOR: Object to form. 18:02:19</p> <p>12 THE WITNESS: Yes. 18:02:19</p> <p>13 QUESTIONS BY MR. KO: 18:02:21</p> <p>14 Q. So at least there were 18:02:22</p> <p>15 somewhere north of one but south of ten 18:02:23</p> <p>16 suspicious orders reported to the DEA? 18:02:25</p> <p>17 A. Yes. 18:02:26</p> <p>18 Q. So that's more than the "none" 18:02:27</p> <p>19 you just indicated to me; is that not 18:02:30</p> <p>20 accurate? 18:02:32</p> <p>21 A. You asked if we had shipped a 18:02:32</p> <p>22 suspicious order. 18:02:34</p> <p>23 Q. I see. 18:02:35</p> <p>24 A. But the orders that we had 18:02:36</p> <p>25 reported between one and ten to DEA were not 18:02:38</p>	<p style="text-align: right;">Page 445</p> <p>1 do you have any reason to doubt that you sent 18:04:51</p> <p>2 that? 18:04:53</p> <p>3 A. No. 18:04:53</p> <p>4 Q. And who is James Parker? 18:04:53</p> <p>5 A. He was a -- I don't know his 18:04:55</p> <p>6 title, unless it's on here. He was in our 18:05:01</p> <p>7 operational excellence program. 18:05:03</p> <p>8 Q. Okay. Was he in senior 18:05:07</p> <p>9 management? 18:05:09</p> <p>10 A. No. 18:05:10</p> <p>11 Q. Okay. And there's a reference 18:05:13</p> <p>12 to Tom Berry as well, and that was at one 18:05:14</p> <p>13 point your direct report, as you indicated 18:05:20</p> <p>14 previously, correct? 18:05:21</p> <p>15 A. Yes, I reported to Tom. 18:05:22</p> <p>16 Q. Okay. And you indicate in this 18:05:24</p> <p>17 e-mail -- the title of the e-mail is "DEA 18:05:30</p> <p>18 mandated a suspicious order monitoring 18:05:34</p> <p>19 program"; is that correct? 18:05:35</p> <p>20 A. Yes. 18:05:35</p> <p>21 Q. Okay. And you indicate, among 18:05:36</p> <p>22 other -- well, you say, "Jim, I am working on 18:05:41</p> <p>23 obtaining the number relating to potential 18:05:45</p> <p>24 lost business and have assembled some 18:05:50</p> <p>25 documentation around actual fines imposed for 18:05:51</p>

<p style="text-align: right;">Page 446</p> <p>1 regulatory noncompliance. I will work on the 18:05:54</p> <p>2 chart and will have all of the above ready by 18:05:56</p> <p>3 this weekend." 18:05:58</p> <p>4 Did I read that correctly? 18:05:59</p> <p>5 A. Yes. 18:05:59</p> <p>6 Q. And then there's a portion 18:06:00</p> <p>7 that's redacted, and then you go on to state, 18:06:02</p> <p>8 "I don't ever want to be perceived as a 18:06:04</p> <p>9 person who cried wolf by asking for a 18:06:07</p> <p>10 presentation to the larger group and welcome 18:06:09</p> <p>11 your feedback." 18:06:11</p> <p>12 A. Okay. 18:06:13</p> <p>13 Q. Did I read that correctly? 18:06:14</p> <p>14 A. Yes. 18:06:14</p> <p>15 Q. Okay. And again, the subject 18:06:15</p> <p>16 of this e-mail is the SOM program. 18:06:16</p> <p>17 Is it accurate to say that you 18:06:19</p> <p>18 are at this point asking Jim, or James, for a 18:06:24</p> <p>19 presentation to a larger group about 18:06:29</p> <p>20 Mallinckrodt's SOM program? 18:06:31</p> <p>21 A. It appears that way. I 18:06:32</p> <p>22 don't -- I do not remember these comments at 18:06:34</p> <p>23 all about the presentation -- 18:06:36</p> <p>24 Q. Sure. 18:06:37</p> <p>25 A. -- but I've refamiliarized 18:06:37</p>	<p style="text-align: right;">Page 448</p> <p>1 So we approached Jim Parker to 18:07:41</p> <p>2 ask him if he would lend his operational 18:07:44</p> <p>3 expertise to the suspicious order monitoring 18:07:47</p> <p>4 program. And in order to do that, these 18:07:48</p> <p>5 folks had to be chartered. So part of the 18:07:52</p> <p>6 charter statement was, what's the potential 18:07:54</p> <p>7 financial impact if we do not do -- perform 18:07:59</p> <p>8 this project. 18:08:02</p> <p>9 So that's why I'm referring to 18:08:03</p> <p>10 this potential lost business and actual fines 18:08:05</p> <p>11 which may be composed -- imposed for 18:08:09</p> <p>12 regulatory noncompliance. 18:08:12</p> <p>13 Q. And regulatory noncompliance 18:08:13</p> <p>14 with the CSA, correct? 18:08:15</p> <p>15 A. Yes. 18:08:17</p> <p>16 Q. Okay. And potential lost 18:08:17</p> <p>17 business, are you referring to the potential 18:08:19</p> <p>18 lost business from continuing to do business 18:08:21</p> <p>19 with your distributors to distribute 18:08:24</p> <p>20 prescription opioids? 18:08:26</p> <p>21 MR. O'CONNOR: Objection to 18:08:27</p> <p>22 form. 18:08:29</p> <p>23 THE WITNESS: Yes. 18:08:29</p> <p>24 QUESTIONS BY MR. KO: 18:08:33</p> <p>25 Q. Okay. And so in effect, you're 18:08:33</p>
<p style="text-align: right;">Page 447</p> <p>1 myself with the rest of the e-mail. 18:06:39</p> <p>2 Q. Okay. And I'll ask you a few 18:06:41</p> <p>3 questions about the previous e-mails. 18:06:44</p> <p>4 A. Certainly. 18:06:48</p> <p>5 Q. But do you recall what you are 18:06:48</p> <p>6 referring to by the "presentation to the 18:06:53</p> <p>7 larger group"? 18:06:55</p> <p>8 A. I don't. 18:06:55</p> <p>9 Q. Okay. 18:06:57</p> <p>10 A. I don't. 18:06:57</p> <p>11 Q. And when you are suggesting -- 18:06:58</p> <p>12 at the beginning of this e-mail when you are 18:07:01</p> <p>13 saying you are working on the number relating 18:07:03</p> <p>14 to potential lost business, are you referring 18:07:05</p> <p>15 to the potential lost business of 18:07:08</p> <p>16 Mallinckrodt -- well, strike that. 18:07:14</p> <p>17 What are you referring to when 18:07:16</p> <p>18 you're referring to the potential lost 18:07:19</p> <p>19 business? 18:07:21</p> <p>20 A. We approached Jim Parker 18:07:21</p> <p>21 because he was operational excellence. So 18:07:23</p> <p>22 there is initiative in business Six Sigma. 18:07:26</p> <p>23 It's a whole process of reviewing a program, 18:07:29</p> <p>24 fishbone charts, a lot of data gathering 18:07:34</p> <p>25 designed to improve a program. 18:07:38</p>	<p style="text-align: right;">Page 449</p> <p>1 doing -- you're asking -- or you are being 18:08:36</p> <p>2 asked to do some sort of burden/benefit 18:08:39</p> <p>3 analysis with respect to a more enhanced SOM 18:08:42</p> <p>4 program relative to the value of the business 18:08:46</p> <p>5 that Mallinckrodt has in distributing 18:08:51</p> <p>6 prescription opioids to its distributors. 18:08:53</p> <p>7 Is that accurate to say? 18:08:55</p> <p>8 MR. O'CONNOR: Objection to 18:08:56</p> <p>9 form. 18:08:57</p> <p>10 THE WITNESS: In order to 18:08:57</p> <p>11 complete this charter document and get 18:08:58</p> <p>12 the resources from the operational 18:08:59</p> <p>13 excellence group. 18:09:00</p> <p>14 QUESTIONS BY MR. KO: 18:09:01</p> <p>15 Q. Okay. That's all the questions 18:09:01</p> <p>16 I have on that. 18:09:04</p> <p>17 Unfortunately, I just only have 18:09:06</p> <p>18 one copy of this, so you will be the lucky 18:09:10</p> <p>19 one to get it. But this is a copy of the 18:09:12</p> <p>20 settlement agreement, the memorandum of 18:09:18</p> <p>21 understanding between Mallinckrodt and the 18:09:23</p> <p>22 DOJ, and it's previously been marked as 18:09:24</p> <p>23 Ratliff Exhibit 41. 18:09:26</p> <p>24 Does this document look 18:09:28</p> <p>25 familiar to you? 18:09:29</p>

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1	A. Yes.	18:09:29	1	talking about a covered time period,	18:11:42
2	Q. And I'd ask that you turn to	18:09:29	2	January 1, 2012, until -- oh, prior to	18:11:44
3	the --	18:09:34	3	January 1, 2012, yes.	18:11:55
4	MR. KO: Sorry, Andrew, but I	18:09:35	4	Q. Okay. So the covered time	18:11:56
5	know that you are probably very	18:09:37	5	period -- and I believe there's --	18:12:00
6	familiar with this, so --	18:09:39	6	A. I'm sorry.	18:12:02
7	MR. O'CONNOR: I'll look over	18:09:40	7	Q. No, it's okay. It's not your	18:12:03
8	her shoulder.	18:09:42	8	fault. I should have more -- more copies.	18:12:05
9	THE WITNESS: Do you want to	18:09:42	9	So there is a definition of the	18:12:10
10	know the page number?	18:09:42	10	covered time period in this agreement.	18:12:13
11	QUESTIONS BY MR. KO:	18:09:42	11	A. All right.	18:12:15
12	Q. I just want to ask you to turn	18:09:43	12	Q. And you can take a look at the	18:12:16
13	to Section 4 --	18:09:44	13	document, but I believe if my memory serves	18:12:19
14	A. All right.	18:09:44	14	me correct, that the covered time period	18:12:23
15	Q. -- of the agreement entitled	18:09:45	15	begins from January 1, 2008, through the date	18:12:25
16	"Admission of Responsibility."	18:09:47	16	of the signing of that agreement.	18:12:29
17	A. Is that acceptance of	18:09:49	17	A. So that's part of the	18:12:34
18	responsibility?	18:09:51	18	background.	18:12:35
19	Q. Sorry, acceptance of	18:09:52	19	Q. Right.	18:12:36
20	responsibility. Thank you.	18:09:53	20	A. Right. It's part of the	18:12:39
21	A. All right.	18:09:55	21	background.	18:12:40
22	Q. Do you see that section?	18:09:55	22	Q. And so I just want to make sure	18:12:41
23	A. Yes.	18:09:57	23	the record is clear.	18:12:42
24	Q. And I know that earlier we had	18:09:57	24	So for purposes of the	18:12:43
25	been discussing some specific language, and	18:10:20	25	Section 4 that we were looking at -- we were	18:12:45
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1	certainly didn't expect you to remember	18:10:24	1	just looking at the admission of	18:12:46
2	specifically what was included. But in that	18:10:25	2	responsibility?	18:12:48
3	section, there is reference made that during	18:10:29	3	A. Yes.	18:12:48
4	the covered time period certain aspects of	18:10:33	4	Q. -- there is reference made to	18:12:48
5	Mallinckrodt's systems to monitor and detect	18:10:36	5	the covered -- from the covered time period	18:12:50
6	suspicious orders did not meet the standards	18:10:39	6	to January 1, 2012, correct?	18:12:53
7	outlined in the DEA letters provided to you	18:10:41	7	A. Yes.	18:12:56
8	in 2006 and 2007. Is that accurate?	18:10:43	8	Q. And so the covered time period	18:12:58
9	A. Yes.	18:10:47	9	begins on January 1, 2008, correct?	18:12:59
10	Q. Okay. And do you -- sitting	18:10:52	10	A. Yes.	18:13:02
11	here today, do you agree with that admission?	18:10:55	11	Q. Okay. So --	18:13:04
12	A. We admitted no wrongdoing, but,	18:10:57	12	A. Sorry.	18:13:07
13	yes, I agree with the MOA -- the statement in	18:11:02	13	Q. A lot of flipping back and	18:13:08
14	the MOA.	18:11:06	14	forth.	18:13:11
15	Q. Okay. And the covered time	18:11:07	15	But just so the record is	18:13:11
16	period, by the way, just so the record is	18:11:09	16	clear, the admission of responsibility is	18:13:13
17	clear -- and you can take a look at the	18:11:10	17	that Mallinckrodt agrees that at certain	18:13:15
18	document if you'd like. But the covered time	18:11:12	18	times from between January 1, 2008, through	18:13:18
19	period for the settlement agreement is from	18:11:15	19	January 1, 2012, certain aspects of	18:13:22
20	January 1, 2008, through January 1, 2012,	18:11:16	20	Mallinckrodt's system to monitor and detect	18:13:25
21	correct?	18:11:19	21	suspicious orders did not meet the standards	18:13:28
22	A. So that's covered conduct, but	18:11:20	22	set forth in the DEA guidance letters,	18:13:30
23	this paragraph relating to the admission of	18:11:33	23	correct?	18:13:32
24	guilt -- or acceptance of responsibility --	18:11:36	24	MR. O'CONNOR: Object to form.	18:13:32
25	very poor choice of words on my part -- is	18:11:40	25	THE WITNESS: Correct.	18:13:34

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1 QUESTIONS BY MR. KO: 18:13:35
2 Q. Okay. And you would agree with 18:13:35
3 that statement, correct? 18:13:36
4 MR. O'CONNOR: Object -- same 18:13:37
5 objection. 18:13:40
6 THE WITNESS: Yes. 18:13:40
7 MR. O'CONNOR: Counsel, I think 18:13:41
8 we're at time. 18:13:42
9 MR. KO: Well, perfect, because 18:13:43
10 I think that was my last question. 18:13:45
11 VIDEOGRAPHER: Go off the 18:13:50
12 record? 18:13:52
13 MR. KO: Yes. 18:13:52
14 VIDEOGRAPHER: We're going off 18:13:53
15 the record at 6:13 p m. 18:13:53
16 (Off the record at 6:13 p m.) 18:13:56
17 VIDEOGRAPHER: We are back on 18:26:44
18 the record at 6:26 p m. 18:26:52
19 DIRECT EXAMINATION 18:26:54
20 QUESTIONS BY MS. HERZFELD: 18:26:54
21 Q. Okay. Ms. Harper, we're back 18:26:55
22 after a break. My name is Tricia Herzfeld, 18:26:57
23 and I'm an attorney representing the 18:27:00
24 Tennessee plaintiffs. 18:27:02
25 Do you know anything about the 18:27:02

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1 Tennessee litigation? 18:27:05
2 A. Not specifically, no. 18:27:06
3 Q. Okay. 18:27:07
4 MS. HERZFELD: Before we get 18:27:08
5 started, I just want to lodge the 18:27:08
6 standard objections we've lodged in 18:27:10
7 all of our Mallinckrodt depositions 18:27:12
8 about the lack of timely document 18:27:14
9 production and the unnecessary 18:27:17
10 narrowing of the time limitation for 18:27:19
11 questioning the witness. 18:27:22
12 MR. O'CONNOR: And I'll lodge 18:27:23
13 our usual objection to the objection. 18:27:25
14 MS. HERZFELD: Wonderful. 18:27:27
15 Okay. Moving on. 18:27:30
16 QUESTIONS BY MS. HERZFELD: 18:27:33
17 Q. Okay. Ms. Harper, have you 18:27:33
18 ever been to Tennessee? 18:27:36
19 A. Yes. 18:27:37
20 Q. Okay. And have you been for 18:27:37
21 business? 18:27:41
22 A. Yes. 18:27:41
23 Q. Okay. And how many times? 18:27:42
24 A. Twice. 18:27:42
25 Q. Okay. And when were those two 18:27:42

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1 times? 18:27:43
2 A. I don't recall the dates. 18:27:43
3 Q. Do you recall roughly what 18:27:44
4 years? 18:27:46
5 A. So I was at FedEx, but I don't 18:27:48
6 know -- I truly don't know the date. 18:27:50
7 Q. Okay. 18:27:54
8 A. And I was at a small 18:27:54
9 distributor, and I cannot remember the name 18:27:56
10 or the date. 18:27:59
11 Q. Okay. And when you were at 18:28:00
12 FedEx, what was the purpose of that? 18:28:03
13 A. To watch their nighttime in and 18:28:04
14 out shift operation. 18:28:08
15 Q. Okay. And did you find 18:28:08
16 anything deficient in observing that? 18:28:11
17 A. No. 18:28:14
18 Q. And the small distributor that 18:28:14
19 you observed, that was during your time at 18:28:16
20 Mallinckrodt? 18:28:17
21 A. Yes. 18:28:18
22 Q. Okay. And do you recall who 18:28:18
23 else was at that meeting? 18:28:19
24 A. Bill Ratliff. 18:28:20
25 Q. Okay. And it was a 18:28:21

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1 distributor, not a pharmacy? 18:28:25
2 A. Yes. 18:28:26
3 Q. Okay. And do you recall 18:28:27
4 finding anything deficient with the 18:28:28
5 operations of that distributor? 18:28:30
6 A. No. 18:28:31
7 Q. Okay. And would there be 18:28:32
8 documentation someplace of that trip that you 18:28:35
9 took with Mr. Ratliff? 18:28:36
10 A. Yes, at least a meeting notice. 18:28:37
11 I'm not certain, yes. 18:28:43
12 Q. Okay. And do you know perhaps 18:28:45
13 if it was after the year 2005? 18:28:47
14 A. Yes. 18:28:50
15 Q. Okay. Do you think maybe it 18:28:52
16 was more recently than 2010? 18:28:53
17 A. Yes. 18:28:55
18 Q. Okay. So sometime between 2010 18:28:59
19 and -- do you think it was in the last three 18:29:01
20 or four years? 18:29:03
21 A. No. 18:29:04
22 Q. Okay. So maybe sometime 18:29:05
23 between 2010 and 2015? 18:29:06
24 A. Yes. 18:29:09
25 Q. Okay. Great. Okay. 18:29:11

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<p>1 And those are the only two 18:29:14</p> <p>2 times you've been to Tennessee for business; 18:29:16</p> <p>3 is that correct? 18:29:18</p> <p>4 A. Yes. 18:29:18</p> <p>5 Q. Okay. Have you been for 18:29:18</p> <p>6 pleasure? 18:29:19</p> <p>7 A. No. 18:29:20</p> <p>8 Q. Okay. Do you have any family 18:29:21</p> <p>9 or relatives in Tennessee? 18:29:23</p> <p>10 A. No. 18:29:25</p> <p>11 Q. Okay. 18:29:25</p> <p>12 A. I stopped over in Tennessee -- 18:29:25</p> <p>13 Q. Okay. 18:29:27</p> <p>14 A. -- once, so, sorry. 18:29:28</p> <p>15 Q. That's okay. 18:29:30</p> <p>16 Were you driving somewhere? 18:29:30</p> <p>17 A. I was coming back from Gulf 18:29:31</p> <p>18 Shores, and I stopped in Memphis to take a 18:29:33</p> <p>19 rest, yes. 18:29:36</p> <p>20 Q. Okay. And when you say you 18:29:37</p> <p>21 were coming from Gulf Shores, you meant from 18:29:38</p> <p>22 Gulf Shores back here to St. Louis? 18:29:41</p> <p>23 A. Yes. 18:29:42</p> <p>24 Q. Okay. Did you get to see 18:29:42</p> <p>25 anything when you were in Memphis? 18:29:44</p>	<p>1 understand Tennessee to be one of those 18:30:45</p> <p>2 states where pills were going from Florida to 18:30:46</p> <p>3 Tennessee? 18:30:49</p> <p>4 A. Yes. 18:30:50</p> <p>5 Q. Okay. And did you understand 18:30:50</p> <p>6 that when those pills were going from Florida 18:30:54</p> <p>7 to Tennessee, that they were ending up in the 18:30:56</p> <p>8 illegal drug market in Tennessee? 18:30:58</p> <p>9 MR. O'CONNOR: Object to form. 18:31:01</p> <p>10 THE WITNESS: Yes. 18:31:01</p> <p>11 QUESTIONS BY MS. HERZFELD: 18:31:03</p> <p>12 Q. Okay. And you said before that 18:31:03</p> <p>13 you'd heard of the Oxy Express. 18:31:06</p> <p>14 Do you know if that could have 18:31:09</p> <p>15 been highway I-75 that goes from Florida to 18:31:11</p> <p>16 Ohio? 18:31:13</p> <p>17 A. I'm sorry, I don't remember the 18:31:14</p> <p>18 highway number. 18:31:16</p> <p>19 Q. Okay. That's okay. 18:31:16</p> <p>20 The highway that is the Oxy 18:31:17</p> <p>21 Express, do you know if it goes through 18:31:21</p> <p>22 Tennessee? 18:31:23</p> <p>23 A. Yes, it does. 18:31:24</p> <p>24 Q. Okay. Okay. And have you ever 18:31:26</p> <p>25 had any communication with any law 18:31:35</p>
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<p>1 A. No. 18:29:45</p> <p>2 Q. Okay. And do you have any 18:29:47</p> <p>3 friends that live in Tennessee? 18:29:48</p> <p>4 A. No. 18:29:49</p> <p>5 Q. Okay. And you said earlier 18:29:51</p> <p>6 that you were aware of the opioid epidemic in 18:29:53</p> <p>7 this country. 18:29:56</p> <p>8 Do you recall that testimony? 18:29:56</p> <p>9 A. Yes. 18:29:57</p> <p>10 Q. Okay. And are you aware of any 18:29:58</p> <p>11 particular regions of the country where the 18:30:00</p> <p>12 opioid epidemic seems to have hit harder than 18:30:02</p> <p>13 others? 18:30:06</p> <p>14 MR. O'CONNOR: Objection. 18:30:07</p> <p>15 Form. 18:30:08</p> <p>16 THE WITNESS: I read the press, 18:30:09</p> <p>17 so Florida, Kentucky, Tennessee, yes, 18:30:11</p> <p>18 I'm familiar with that -- that press. 18:30:18</p> <p>19 QUESTIONS BY MS. HERZFELD: 18:30:20</p> <p>20 Q. Okay. Okay. And I think you 18:30:20</p> <p>21 had already testified that you knew that 18:30:36</p> <p>22 pills were going from Florida to other 18:30:38</p> <p>23 states; is that correct, ma'am? 18:30:41</p> <p>24 A. Yes. 18:30:41</p> <p>25 Q. Okay. And was -- did you 18:30:42</p>	<p>1 enforcement in Tennessee? 18:31:36</p> <p>2 A. Yes. 18:31:37</p> <p>3 Q. Okay. And can you tell me 18:31:38</p> <p>4 roughly how many times? 18:31:40</p> <p>5 A. Me, once. 18:31:41</p> <p>6 Q. Okay. And what was the time? 18:31:46</p> <p>7 A. I'm not -- I don't want -- I 18:31:49</p> <p>8 don't want to swear to the year or attest to 18:31:55</p> <p>9 the year. I believe it was 2008. 18:31:58</p> <p>10 Q. Okay. And do you recall who it 18:32:00</p> <p>11 is you were speaking with? 18:32:05</p> <p>12 A. No. 18:32:06</p> <p>13 Q. Okay. I'm going to show you 18:32:10</p> <p>14 what we're going to have marked here as 18:32:11</p> <p>15 Exhibit 34, which we're going to late file 18:32:14</p> <p>16 with an e-mail. 18:32:16</p> <p>17 MS. HERZFELD: No objection 18:32:18</p> <p>18 from defendants, yes? 18:32:18</p> <p>19 MR. O'CONNOR: Provided it's 18:32:19</p> <p>20 the copy we see. 18:32:20</p> <p>21 MS. HERZFELD: Yes, sir. 18:32:22</p> <p>22 (Mallinckrodt-Harper Exhibit 34 18:32:23</p> <p>23 marked for identification.) 18:32:23</p> <p>24 QUESTIONS BY MS. HERZFELD: 18:32:23</p> <p>25 Q. Okay. And I am going to turn 18:32:24</p>

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1 this around so you can just read it 18:32:24

2 yourself -- 18:32:26

3 A. Oh, great, because I just -- 18:32:26

4 Q. It's just -- 18:32:28

5 A. I just had lens implants, so 18:32:28

6 thank you. 18:32:31

7 Q. Oh, very good. 18:32:31

8 And if you want to read down, 18:32:33

9 you can just use your finger, just, you know. 18:32:34

10 A. Okay. 18:32:38

11 All right. I've reread, yes. 18:32:39

12 Q. Okay. Great. 18:33:14

13 And you received this e-mail 18:33:15

14 from Bill Ratliff on Wednesday, July 8, 2009; 18:33:17

15 is that correct? 18:33:21

16 A. July 7, 2009. 18:33:21

17 Q. July 7th. Okay. 18:33:38

18 A. Yes, ma'am. 18:33:39

19 Q. And does this e-mail describe a 18:33:43

20 communication that Mr. Ratliff had received 18:33:45

21 from an Officer Dwayne Collins in Morristown 18:33:47

22 talking about pills going from -- being found 18:33:50

23 in an illegal drug transaction in Tennessee 18:33:54

24 that were traced to Florida? 18:33:56

25 A. Yes. 18:33:58

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1 Q. Okay. And just for the record, 18:34:00

2 this is a three-page document that is labeled 18:34:03

3 MNK_TNSTA05123927. 18:34:09

4 Okay. Great. Now we're done 18:34:15

5 with that complicated moment. 18:34:17

6 Okay. And did you personally 18:34:26

7 speak to Officer Dwayne Collins; do you 18:34:27

8 recall? 18:34:32

9 A. I believe the initial contact 18:34:32

10 to Mallinckrodt was to me. 18:34:38

11 Q. Okay. 18:34:39

12 A. And I immediately turn it over 18:34:39

13 to Bill Ratliff. 18:34:40

14 Q. Okay. And once you turned it 18:34:41

15 over to Mr. Ratliff, did you have any further 18:34:43

16 involvement with that situation? 18:34:47

17 A. Yes. 18:34:48

18 Q. Okay. And what was your 18:34:48

19 involvement? 18:34:49

20 A. I helped Mr. Ratliff obtain the 18:34:49

21 reports he was requesting in terms of the 18:34:56

22 shipments of the particular drug product that 18:35:03

23 was the object of the investigation. 18:35:05

24 Q. Okay. And is there any other 18:35:07

25 involvement that you had with the situation 18:35:10

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1 in Morristown? 18:35:13

2 A. Only to the extent that the 18:35:14

3 situation in Morristown led us to review -- 18:35:18

4 to go to Sunrise distributors. 18:35:24

5 Q. Okay. And then I think you've 18:35:26

6 already testified about your involvement with 18:35:27

7 Sunrise today. 18:35:29

8 A. Yes. 18:35:30

9 Q. Okay. But other than that, 18:35:31

10 specifically with the Tennessee portion, you 18:35:32

11 didn't have any other involvement in that? 18:35:34

12 A. There were some chargeback 18:35:37

13 reports -- 18:35:39

14 Q. Okay. 18:35:39

15 A. -- also, but those were 18:35:39

16 gathered to provide to Mr. Ratliff -- 18:35:42

17 Q. Okay. 18:35:44

18 A. -- again within the initial 18:35:45

19 course of his investigation. 18:35:47

20 Q. Okay. 18:35:48

21 A. But, no, nothing else. 18:35:48

22 Q. And do you know -- oh, go 18:35:52

23 ahead. 18:35:54

24 A. I apologize. 18:35:54

25 Q. That's okay. 18:35:55

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1 A. I apologize. 18:35:56

2 So we made the decision to go 18:35:56

3 to Sunrise and conduct an audit. Mr. Ratliff 18:35:59

4 contacted Pete Kleissle, who was our 18:36:04

5 diversion group supervisor of DEA St. Louis. 18:36:06

6 Pete came to Mallinckrodt, and 18:36:10

7 we had an informal conversation about -- 18:36:11

8 where Mr. Ratliff conveyed the circumstances 18:36:15

9 around the law enforcement investigation. 18:36:18

10 And Mr. Ratliff told Pete Kleissle that we 18:36:20

11 intended to go and conduct an audit of 18:36:23

12 Sunrise. So I was present for that meeting. 18:36:26

13 Q. Okay. And so Tennessee was 18:36:29

14 brought up in the context of we received this 18:36:30

15 information from this individual in 18:36:33

16 Morristown? 18:36:34

17 A. Yes. 18:36:35

18 Q. Okay. And the chargeback 18:36:35

19 reports that you provided to Mr. Ratliff in 18:36:37

20 furtherance of his investigation in response 18:36:41

21 to this Morristown e-mail, do you recall 18:36:43

22 specifically what information was pulled in 18:36:46

23 those chargeback reports? 18:36:47

24 A. I don't know specifically what 18:36:48

25 the reports -- how they were tailored or 18:36:57

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1	customized. 18:36:59	1	Diversion Investigators, the title of their 18:38:55
2	Q. Okay. Do you know where I 18:37:00	2	newsletter is RX News. 18:38:56
3	could locate those reports? 18:37:01	3	Q. Okay. 18:38:57
4	A. I don't know. 18:37:03	4	A. And a lot of them came 18:38:58
5	Q. Okay. Would you have e-mailed 18:37:10	5	through -- it was called Mudri, or Mudri, 18:38:59
6	them to Mr. Ratliff? 18:37:11	6	agency. 18:39:02
7	A. They would have likely been 18:37:12	7	Q. Okay. 18:39:03
8	e-mailed from Eileen Spaulding. 18:37:14	8	A. So it was all connected to 18:39:03
9	Q. Okay. 18:37:19	9	these NADDI reports. 18:39:05
10	A. And potentially on the 18:37:19	10	Q. Okay. So those are all 18:39:06
11	chargebacks from Kate Muhlenkamp. 18:37:21	11	generally the same thing, even if they have 18:39:07
12	Q. Okay. And it would have been 18:37:25	12	different names? 18:39:09
13	to you and/or Mr. Ratliff? 18:37:29	13	A. Yes. 18:39:10
14	A. Yes. 18:37:31	14	Q. Okay. Great. 18:39:11
15	Q. Okay. And would it have been 18:37:32	15	And you received those reports 18:39:11
16	around that time in 2009? 18:37:34	16	as part of your job; is that correct? 18:39:13
17	A. Yes. 18:37:36	17	A. Yes. 18:39:15
18	Q. Okay. And the -- that's all 18:37:39	18	Q. Okay. And then did 18:39:16
19	you remember about the chargeback data? 18:37:43	19	Mallinckrodt take that information and then 18:39:17
20	Is there anything else you 18:37:45	20	turn that into a controlled substances 18:39:20
21	remember? 18:37:46	21	compliance monthly newsletter? 18:39:23
22	A. It was 2009 -- I'm sorry. 18:37:46	22	A. Yes. 18:39:26
23	Q. That's okay. 18:37:48	23	Q. Okay. And who was responsible 18:39:27
24	A. That's the drug task force 18:37:49	24	for doing that? 18:39:28
25	officer call to Mallinckrodt. 18:37:51	25	A. One of my colleagues. Her name 18:39:29
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1	Q. Yes, ma'am. 18:37:52	1	is Carrie Johnson, and she's at our Hobart, 18:39:32
2	A. I'm sorry. 18:37:53	2	New York, facility. 18:39:36
3	So can you repeat the last 18:37:53	3	Q. Okay. And basically in those 18:39:37
4	question? 18:37:56	4	controlled substances compliance monthly 18:39:39
5	Q. Sure. 18:37:56	5	newsletters, it would summarize news articles 18:39:41
6	So when the chargeback data was 18:37:57	6	about controlled substances? 18:39:43
7	pulled, do you believe that would have been 18:37:58	7	A. Yes. Well, the reports we had 18:39:44
8	in 2009? 18:38:01	8	obtained through RX News, yes. 18:39:47
9	A. Yes. 18:38:01	9	Q. Okay. And does Mallinckrodt 18:39:49
10	Q. Okay. Okay. Okay. And I 18:38:03	10	still receive some kind of document that 18:39:53
11	think you testified earlier that as part of 18:38:25	11	aggregates news articles in that way? 18:39:56
12	your job, you were included on certain 18:38:26	12	A. I don't know. We have Google 18:39:58
13	LISTSERVs where you received news articles? 18:38:29	13	Alerts set, but I don't know that we receive 18:40:03
14	A. Yes. 18:38:30	14	RX News or if they still provide that 18:40:05
15	Q. Okay. And those were the 18:38:31	15	service. 18:40:07
16	NADDI; is that right? 18:38:34	16	Q. Google Alerts is definitely 18:40:08
17	A. Yes. 18:38:35	17	pretty easy to do, right? 18:40:11
18	Q. Okay. Which is the National 18:38:35	18	A. Yes. 18:40:12
19	Association of Drug Diversion Investigators? 18:38:39	19	Q. Okay. Do you know what words 18:40:12
20	A. Yes. 18:38:39	20	are keyed in for Google Alerts? 18:40:13
21	Q. Okay. And also RX News? 18:38:39	21	A. Yes. 18:40:16
22	A. Yes. 18:38:42	22	Q. Could you tell me, please? 18:40:16
23	Q. Okay. And then what is Mudri 18:38:43	23	A. "Oxycodone." "Prescription 18:40:18
24	and Associates? 18:38:46	24	drug." "Diversion." "Pharmacy theft." 18:40:23
25	A. So National Association of Drug 18:38:50	25	Those are some, but I don't know that that's 18:40:28

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1 an all-inclusive list. 18:40:30

2 Q. Okay. Thank you, ma'am. 18:40:32

3 Do you know if "pill mill" is 18:40:33

4 in there? 18:40:34

5 A. I believe so. 18:40:35

6 Q. Okay. And one of the things 18:40:37

7 that you're monitoring is news about pill 18:40:39

8 mills? 18:40:42

9 A. Yes. 18:40:42

10 Q. Okay. And specifically pill 18:40:44

11 mills that are dealing in oxycodone? 18:40:45

12 A. Yes. 18:40:48

13 Q. Okay. And are you aware of 18:40:51

14 that there are pill mills in the state of 18:40:54

15 Tennessee? 18:40:56

16 A. I may have received articles to 18:40:56

17 that effect, but not -- no, I'm not -- it's 18:41:00

18 not in my sphere of awareness right now. 18:41:02

19 Q. Okay. I can show you some of 18:41:06

20 the articles if you'd like. 18:41:07

21 A. No, I'll believe you. 18:41:08

22 Q. Oh, well, I don't want to 18:41:10

23 testify to it. I just need to know if you 18:41:11

24 were aware from your time at Mallinckrodt -- 18:41:15

25 A. Oh, yes. 18:41:16

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1 Q. -- that there are pill mills in 18:41:17

2 Tennessee. 18:41:19

3 A. Yes. Yes. 18:41:19

4 Q. Okay. Great, ma'am. Thank 18:41:20

5 you. 18:41:22

6 And had you ever heard that 18:41:22

7 those pill mills, some of them had popped up 18:41:23

8 more after pill mills had closed in Florida? 18:41:26

9 A. Yes. 18:41:28

10 MR. O'CONNOR: Object to form. 18:41:29

11 QUESTIONS BY MS. HERZFELD: 18:41:30

12 Q. So if pill mills closed in 18:41:30

13 Florida, you heard that more had popped up in 18:41:32

14 Tennessee? 18:41:34

15 A. Yes, and surrounding states, 18:41:35

16 yes. 18:41:37

17 Q. Okay. Thank you, ma'am. 18:41:37

18 (Mallinckrodt-Harper Exhibit 35 18:42:59

19 marked for identification.) 18:43:00

20 QUESTIONS BY MS. HERZFELD: 18:43:00

21 Q. Okay. We'll mark this next 18:43:00

22 exhibit as number 35. 18:43:01

23 Okay. I've handed you what 18:43:17

24 we've marked as Exhibit 35. 18:43:40

25 For the record, it's Bates 18:43:42

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1 number MNK-T1_0007185722. 18:43:43

2 Okay. What I've handed you 18:43:53

3 here is an e-mail that you received from 18:43:57

4 Eileen Spaulding dated August 11, 2016; is 18:43:59

5 that correct? 18:44:03

6 A. Yes, that's part of the chain. 18:44:03

7 Q. Okay. And then the subject is 18:44:05

8 re: Google Alert oxycodone; is that correct? 18:44:07

9 A. Yes. 18:44:09

10 Q. Okay. And so looking down 18:44:10

11 here, I'm mostly interested in -- who is 18:44:14

12 Heather McKenzie? 18:44:17

13 A. She was part of our group -- 18:44:19

14 well, she's still part of the controlled 18:44:21

15 substances compliance group, but she for a 18:44:25

16 period of time worked more closely with 18:44:26

17 suspicious order monitoring. 18:44:29

18 Q. Okay. And was she working more 18:44:29

19 with suspicious order monitoring or 18:44:32

20 controlled substances compliance in August 18:44:34

21 of 2016? 18:44:37

22 A. Suspicious order monitoring. 18:44:37

23 Q. Okay. And so it looks to me 18:44:39

24 like Heather McKenzie set up her Google Alert 18:44:41

25 to her work e-mail address and is excited 18:44:44

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1 that it showed up. 18:44:47

2 Does that look correct? 18:44:48

3 A. Yes. Yes. 18:44:49

4 Q. Okay. And she's e-mailing that 18:44:50

5 to you. 18:44:51

6 Was that a direction from you 18:44:54

7 to her to set up the Google Alert? 18:44:55

8 A. Yes. 18:44:57

9 Q. Okay. And why was that? 18:44:58

10 A. She was taking over the 18:44:58

11 responsibility being passed on from Carrie 18:45:00

12 Johnson. 18:45:03

13 Q. Okay. Great. 18:45:04

14 And then Eileen says, "It seems 18:45:04

15 like there's an awful lot of hits here. Is 18:45:08

16 this what Jen used to receive? Just make 18:45:11

17 sure we set up her Google Alerts correctly 18:45:13

18 for the right terms. Eileen." 18:45:16

19 Do you see where it says that? 18:45:18

20 A. Yes, and I'd like to clarify my 18:45:21

21 last answer. 18:45:23

22 Q. Sure. 18:45:23

23 A. So Carrie Johnson did the 18:45:24

24 Google Alerts, and then this prompted my 18:45:27

25 memory. There was a woman named Jen Buist 18:45:31

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<p>1 who did for them a while. 18:45:34</p> <p>2 Q. Okay. 18:45:34</p> <p>3 A. Jen left the company, and then 18:45:36</p> <p>4 they went to this Heather McKenzie. 18:45:37</p> <p>5 Q. Okay. Great. 18:45:40</p> <p>6 And do you know if Heather does 18:45:40</p> <p>7 them now? 18:45:41</p> <p>8 A. She does not. 18:45:42</p> <p>9 Q. Do you know who does? 18:45:42</p> <p>10 A. Yes. 18:45:44</p> <p>11 Q. Who is it? 18:45:44</p> <p>12 A. There's a controlled substances 18:45:45</p> <p>13 compliance auditor analyst at our Hobart, New 18:45:48</p> <p>14 York, facility who takes care of them. 18:45:52</p> <p>15 Q. And do you know his or her 18:45:53</p> <p>16 name? 18:45:55</p> <p>17 A. She's very new. Rochelle -- 18:45:55</p> <p>18 it's like MoQuay or Mokay. I'm not certain. 18:46:00</p> <p>19 She's within the past couple of weeks joined 18:46:03</p> <p>20 our group. 18:46:05</p> <p>21 Q. Oh, very new. 18:46:05</p> <p>22 A. Yes. 18:46:06</p> <p>23 Q. Okay. Great. 18:46:07</p> <p>24 And in between Rochelle, has 18:46:07</p> <p>25 Heather had the responsibility from that 18:46:10</p>	<p>1 usual? 18:47:12</p> <p>2 A. So I'm looking to see, please, 18:47:12</p> <p>3 if these are Google Alerts all from the same 18:47:14</p> <p>4 day or if it's an accumulation of days. I 18:47:17</p> <p>5 cannot tell that by this document. 18:47:21</p> <p>6 Q. Okay. And do you know if you 18:47:22</p> <p>7 normally had your team running them, the 18:47:25</p> <p>8 Google Alerts for oxycodone and the other key 18:47:27</p> <p>9 words we had talked about, once a day or once 18:47:30</p> <p>10 a week? 18:47:33</p> <p>11 A. So it's a passive process. We 18:47:34</p> <p>12 set up the Google Alerts, and then the Google 18:47:37</p> <p>13 Alerts come to us automatically based upon 18:47:40</p> <p>14 Google's search for these key terms. 18:47:43</p> <p>15 Q. Okay. So you don't set the 18:47:45</p> <p>16 frequency; Google does? 18:47:47</p> <p>17 A. Correct. 18:47:48</p> <p>18 Q. Okay. Okay. And so looking at 18:47:49</p> <p>19 this basically nine and a half pages of hits, 18:47:53</p> <p>20 that didn't seem unusual to you according to 18:47:55</p> <p>21 this e-mail? 18:47:56</p> <p>22 A. Correct. 18:47:57</p> <p>23 Q. Okay. And then when you said, 18:47:57</p> <p>24 "Not all articles require any kind of 18:47:59</p> <p>25 chargeback lookup whatsoever," typically did 18:48:02</p>
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<p>1 point? 18:46:12</p> <p>2 A. Yes. 18:46:13</p> <p>3 Q. Okay. So then Eileen says, as 18:46:16</p> <p>4 we just said, going back to this, it looks 18:46:20</p> <p>5 like basically there's a lot of hits there. 18:46:22</p> <p>6 Is that usual. 18:46:25</p> <p>7 Did you respond to her? 18:46:26</p> <p>8 A. Yes. 18:46:27</p> <p>9 Q. Okay. And that's the next 18:46:28</p> <p>10 e-mail chain here, Thursday, August 11th, at 18:46:29</p> <p>11 8:56 a.m.; is that right? 18:46:34</p> <p>12 A. Yes. 18:46:36</p> <p>13 Q. Okay. And so in this e-mail 18:46:36</p> <p>14 you say, "The amount of hits is correct; 18:46:38</p> <p>15 however, important note: Not all articles 18:46:40</p> <p>16 require any kind of chargeback lookup 18:46:42</p> <p>17 whatsoever." 18:46:46</p> <p>18 So let's back up a little bit 18:46:47</p> <p>19 before we get there. 18:46:48</p> <p>20 So you say, "The amount is 18:46:49</p> <p>21 correct." Let's start with that. 18:46:51</p> <p>22 There are, gosh, one, two -- 18:46:54</p> <p>23 nine and a half, roughly, pages of Google 18:47:05</p> <p>24 hits here. 18:47:07</p> <p>25 Is that -- that's what was 18:47:08</p>	<p>1 some article require chargeback lookup? 18:48:06</p> <p>2 A. Yes, if a pharmacy was named. 18:48:08</p> <p>3 Q. If a pharmacy was named. Okay. 18:48:09</p> <p>4 What about if a physician was 18:48:11</p> <p>5 named? 18:48:12</p> <p>6 A. In -- at some point in our 18:48:13</p> <p>7 program, yes, but not -- not at the current 18:48:21</p> <p>8 time. 18:48:25</p> <p>9 Q. Okay. And what was the period 18:48:26</p> <p>10 of time that you would do a chargeback lookup 18:48:27</p> <p>11 if a physician was named? 18:48:30</p> <p>12 A. I don't know -- I don't know 18:48:31</p> <p>13 the span of time. 18:48:33</p> <p>14 Q. Okay. Do you know for how long 18:48:34</p> <p>15 it was? Months? Years? Weeks? 18:48:36</p> <p>16 A. Months. I can't say years. 18:48:39</p> <p>17 Months up to -- up to a year or so. 18:48:46</p> <p>18 Q. Okay. But you don't remember 18:48:49</p> <p>19 the time period when that happened? 18:48:50</p> <p>20 A. No. 18:48:53</p> <p>21 Q. And do you know why that 18:48:53</p> <p>22 practice was discontinued? 18:48:56</p> <p>23 A. The answer may require 18:48:58</p> <p>24 privileged information. 18:49:07</p> <p>25 MR. O'CONNOR: And of course 18:49:08</p>

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1 I'll instruct the witness not to 18:49:10
2 answer to the extent it requires 18:49:11
3 revealing communications with a 18:49:13
4 lawyer. 18:49:14
5 QUESTIONS BY MS. HERZFELD: 18:49:15
6 Q. Can you answer the question 18:49:16
7 without telling me what your lawyers told 18:49:17
8 you? 18:49:20
9 A. I cannot. 18:49:20
10 Q. Okay. So I'll take it -- 18:49:28
11 A. I'm sorry. 18:49:29
12 Q. That's okay. 18:49:29
13 So when I ask, at some point 18:49:29
14 did it change looking at chargeback 18:49:32
15 information when the mention of doctors were 18:49:34
16 in these Google hits or the Google news 18:49:37
17 alerts, you're asserting attorney-client 18:49:40
18 privilege to answer that question? 18:49:43
19 A. Yes, I am. 18:49:44
20 Q. Okay. And your attorney has 18:49:45
21 advised you to assert attorney-client 18:49:46
22 privilege to this question, and you're taking 18:49:49
23 his advice? 18:49:53
24 A. Correct. 18:49:53
25 Q. Okay. Okay. So there's no 18:49:54

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1 other way you could answer that without 18:49:55
2 telling me what your attorney said? 18:49:56
3 A. No. 18:49:58
4 Q. Okay. Do you know if the 18:50:00
5 decision to stop monitoring physicians for 18:50:04
6 chargeback data when you've gotten an alert 18:50:09
7 from Google, if that happened within the past 18:50:13
8 two years? 18:50:15
9 A. It did not. 18:50:16
10 Q. Okay. Do you know if it 18:50:17
11 happened in the last five years? 18:50:18
12 A. I'm aware that I'm under oath, 18:50:21
13 and I apologize, I'm just terrible with my 18:50:23
14 dates and years, as we've heard all day long. 18:50:25
15 So I can't -- you continue -- and I 18:50:28
16 appreciate you're trying to help me with a 18:50:32
17 frame of reference in time, but I can't 18:50:34
18 answer the question. 18:50:36
19 Q. If you can't answer it, you 18:50:36
20 can't answer it. I'm just trying to figure 18:50:39
21 out if it was very -- you know, at the 18:50:40
22 beginning, in like 2007, or if we're talking 18:50:42
23 in 2018. 18:50:45
24 A. It's not 2010; it's not 2018. 18:50:48
25 Q. Okay. 18:50:57

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1 A. It's -- it was active in the 18:50:57
2 early part of 2012 -- 18:51:02
3 Q. Okay. 18:51:03
4 A. -- but I just don't know 18:51:04
5 specifically when it started before that or 18:51:06
6 ended after that. 18:51:08
7 Q. Okay. Great. 18:51:10
8 Okay. So going back to what we 18:51:13
9 have here. So you said pharmacy would 18:51:15
10 require a chargeback look. If there was a 18:51:18
11 pharmacy name in Google Alert, that would 18:51:21
12 require a chargeback look from your team; is 18:51:24
13 that right? 18:51:27
14 A. Yes. 18:51:27
15 Q. Okay. And if physician named, 18:51:27
16 for a short period of time you did a search 18:51:29
17 for physician information, if they were 18:51:33
18 named? 18:51:36
19 A. Yes. 18:51:36
20 Q. Okay. And what type of search 18:51:37
21 would you do for physicians? 18:51:39
22 A. So we were -- that was when we 18:51:41
23 were looking at IMS data. 18:51:43
24 Q. Okay. 18:51:45
25 A. And an internal group provided 18:51:46

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1 us a list of physicians that were the highest 18:51:54
2 prescribers of oxycodone within the country. 18:51:56
3 Q. Okay. And you said an internal 18:51:58
4 group provided you that list of physicians. 18:52:01
5 What was the name of the 18:52:03
6 internal group? 18:52:05
7 A. Oh, gosh, I can't remember. 18:52:07
8 Q. Okay. Do you remember who was 18:52:09
9 on it? 18:52:11
10 A. Yes. 18:52:12
11 Q. Okay. Could you tell me the 18:52:13
12 name? 18:52:14
13 A. Certainly. There was a lady 18:52:14
14 named Tammy Fraley and a gentleman named 18:52:15
15 Jeremy Stammer. 18:52:20
16 Q. Okay. And they would provide 18:52:23
17 you a list of the top prescribing oxycodone 18:52:26
18 physicians within the country? 18:52:30
19 A. Yes. 18:52:32
20 Q. Okay. And what would you do 18:52:33
21 with that list? 18:52:34
22 A. If we learned the name of a 18:52:35
23 physician for that period of time we were 18:52:39
24 conducting that activity through Google Alert 18:52:41
25 or when we were talking to our wholesaler and 18:52:44

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1 distributor customers about their due 18:52:49
2 diligence with the downstream registrants, 18:52:53
3 the pharmacies, sometimes they had gathered 18:52:55
4 information on who the top prescribers were 18:52:59
5 at a pharmacy. 18:53:02
6 Q. Okay. 18:53:03
7 A. So then we'd compare that name 18:53:03
8 to our list of top prescribers. 18:53:06
9 Q. Okay. And then if you found 18:53:08
10 that person on the list of top prescribers, 18:53:10
11 what, if anything, would you do? 18:53:13
12 A. It was a -- pardon me. 18:53:14
13 Q. It's okay. 18:53:16
14 A. It was a contributing factor to 18:53:16
15 whether we -- it was another factor in 18:53:20
16 evaluating whether we would restrict the 18:53:23
17 payment of chargebacks to that pharmacy. 18:53:27
18 Q. Okay. So I just want to make 18:53:30
19 sure that I'm understanding this correctly. 18:53:31
20 So for a relatively short 18:53:33
21 period of time, somewhere maybe around 18:53:35
22 2012 -- 18:53:37
23 A. Yes. 18:53:39
24 Q. Okay. When you'd receive a 18:53:40
25 Google Alert or other information from a 18:53:42

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1 distributor's pharmacy or from their 18:53:48
2 information about a physician, you also had a 18:53:49
3 list from an internal group that was the 18:53:52
4 highest prescribers of oxycodone, and you 18:53:55
5 would compare the two and use those as a 18:53:57
6 factor in making a determination of whether 18:54:01
7 you were giving chargebacks? 18:54:02
8 MR. O'CONNOR: Objection to 18:54:04
9 form. 18:54:05
10 THE WITNESS: Paying 18:54:05
11 chargebacks, yes. 18:54:06
12 QUESTIONS BY MS. HERZFELD: 18:54:07
13 Q. Okay. Paying chargebacks -- 18:54:07
14 A. Yes, ma'am. 18:54:08
15 Q. -- not giving chargebacks. 18:54:09
16 A. Yes. 18:54:10
17 Q. Okay. I just wanted to make 18:54:10
18 sure I understood that. 18:54:12
19 But then that practice was 18:54:13
20 discontinued after a relatively short period 18:54:14
21 of time? 18:54:17
22 A. Again, I don't know the stop 18:54:17
23 and the start date or how long we used that 18:54:19
24 as a component of our program. I don't know. 18:54:22
25 Q. But it was -- it was stopped 18:54:24

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1 in, you said you thought, a matter of months, 18:54:26
2 maybe a year. It wasn't something that went 18:54:29
3 on for years and years? 18:54:30
4 A. Yes, that's my approximation, 18:54:31
5 yes. 18:54:33
6 Q. Okay. Great. 18:54:33
7 Okay? And you'd also said in 18:54:33
8 earlier testimony that someone from your team 18:54:39
9 or you would review the Federal Register 18:54:41
10 every day; is that correct? 18:54:46
11 MR. O'CONNOR: Objection to 18:54:46
12 form. 18:54:47
13 THE WITNESS: Yes. 18:54:47
14 QUESTIONS BY MS. HERZFELD: 18:54:47
15 Q. Okay. And in those Federal 18:54:49
16 Register updates, there are updates to the 18:54:53
17 Federal Codes of Regulations; is that right? 18:54:54
18 A. Yes. 18:54:56
19 Q. Okay. And there are also, from 18:54:57
20 time to time, updates of, for example, 18:54:58
21 physicians who have been indicted; is that 18:55:00
22 correct? 18:55:02
23 A. Yes. 18:55:02
24 Q. Okay. And so would you review 18:55:03
25 those Federal Register documents for 18:55:05

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1 physicians that had been indicted or arrested 18:55:10
2 for anything involving prescription opioids? 18:55:13
3 A. Yes. 18:55:17
4 Q. Okay. And what would you do 18:55:18
5 with that information if you saw it? 18:55:20
6 A. So that would have been during 18:55:21
7 the same amount of time. 18:55:26
8 Q. Okay. 18:55:28
9 A. If we're reviewing information 18:55:28
10 gathered by any source that named a 18:55:30
11 prescriber, we were -- we were comparing that 18:55:31
12 to the top prescriber listing of -- that had 18:55:34
13 been supplied to us. 18:55:38
14 Q. Okay. But once that -- that 18:55:39
15 short-term practice ended, did you continue 18:55:41
16 to do that? 18:55:44
17 A. No. 18:55:45
18 Q. Okay. Okay. And when you 18:55:46
19 would receive these Google Alerts and it 18:56:01
20 would talk about pharmacies, would you look 18:56:02
21 at the area that the pharmacy was in? 18:56:06
22 A. Yes. 18:56:09
23 Q. Okay. And what information 18:56:11
24 would you gather about the area that the 18:56:12
25 pharmacy was in? 18:56:14

<p style="text-align: right;">Page 486</p> <p>1 A. So I'd like to clarify. It was 18:56:14 2 more so the pharmacy name -- 18:56:22 3 Q. Okay. 18:56:23 4 A. -- and that would prompt us to 18:56:23 5 look through our chargebacks. And if there 18:56:25 6 was a nexus of the city and states -- in the 18:56:30 7 case of Joe's Pharmacy, if the Google Alert 18:56:32 8 said the same city and state as was 18:56:34 9 referenced in our chargeback information, we 18:56:37 10 knew that there was a correlation. 18:56:40 11 Q. Okay. But if it said, for 18:56:41 12 example, Joe's Pharmacy in Rocky Top, 18:56:45 13 Tennessee, did you go and do any research on 18:56:50 14 Rocky Top, Tennessee, other than to verify 18:56:52 15 that Joe's Pharmacy was in Rocky Top, 18:56:55 16 Tennessee? 18:56:57 17 A. At times, yes. 18:56:58 18 Q. Okay. And what would prompt 18:56:58 19 you to do that? 18:57:01 20 A. Some of the media alerts 18:57:01 21 contained things like statements that in a 18:57:04 22 certain region there was an issue, and so 18:57:09 23 then that would prompt us to look at the 18:57:13 24 chargebacks by -- in a specific geographic 18:57:15 25 area. 18:57:18</p>	<p style="text-align: right;">Page 488</p> <p>1 back and says, "Okay, thank you. I didn't do 18:58:04 2 much with them, as Carrie started the project 18:58:06 3 and then Jen took it over and just wanted to 18:58:08 4 double-check." 18:58:11 5 That seems correct with your 18:58:11 6 memory? 18:58:13 7 A. Yes. 18:58:13 8 Q. Okay. And so going back to the 18:58:14 9 section of the e-mail where you're talking 18:58:15 10 about the amount of hits is correct? 18:58:17 11 A. Yes. 18:58:21 12 Q. Yes. Okay. 18:58:22 13 So when you respond to her 18:58:23 14 about we're looking at pharmacy name and 18:58:25 15 address, you don't mention physician or 18:58:26 16 location, those things we just talked about. 18:58:30 17 That's because that short-lived 18:58:32 18 initiative had already been terminated by 18:58:34 19 that point; is that right? 18:58:37 20 MR. O'CONNOR: Objection to 18:58:37 21 form. 18:58:38 22 THE WITNESS: So the physician 18:58:38 23 piece was not part of the program 18:58:42 24 then. It was an error of omission in 18:58:45 25 the e-mail. We would indeed do 18:58:48</p>
<p style="text-align: right;">Page 487</p> <p>1 Q. Okay. So let's finish up with 18:57:19 2 your e-mail here before we move on to the 18:57:24 3 next one. 18:57:25 4 A. Okay. 18:57:25 5 Q. So it says, "Google Alerts are 18:57:26 6 scanned quickly for any mention of a pharmacy 18:57:27 7 name or address. If none are contained in 18:57:29 8 the article, an article is about perhaps new 18:57:33 9 legislation or drug takeback initiatives, 18:57:35 10 then no further action is taken." 18:57:39 11 Did I read that correctly? 18:57:41 12 A. Yes. 18:57:41 13 Q. Okay. And is that true, if it 18:57:42 14 was about legislation or drug takeback 18:57:43 15 initiatives, you just skipped over it? 18:57:45 16 A. Yes. 18:57:48 17 Q. Okay. Is there anything else 18:57:48 18 you looked for in those Google Alerts -- 18:57:50 19 A. No. 18:57:52 20 Q. -- than what we've talked 18:57:53 21 about? 18:57:54 22 A. No. 18:57:55 23 Q. Okay. 18:57:55 24 A. No. 18:57:56 25 Q. Okay. And then Eileen writes 18:57:58</p>	<p style="text-align: right;">Page 489</p> <p>1 further review if a geographic area 18:58:52 2 was mentioned without the benefit of a 18:58:54 3 pharmacy name. 18:58:56 4 QUESTIONS BY MS. HERZFELD: 18:58:57 5 Q. Okay. So if a geographic area 18:58:57 6 was mentioned, you would -- 18:58:59 7 A. Yes. 18:59:01 8 Q. -- but a physician at that 18:59:03 9 point was not in the program? 18:59:07 10 A. Correct. 18:59:08 11 Q. Okay. I just wanted to make 18:59:09 12 sure I understood that. Thank you. 18:59:11 13 A. You're welcome. 18:59:11 14 Q. You can put that aside. 18:59:11 15 Have you ever heard the term 18:59:12 16 "pillbillies"? 18:59:29 17 A. No. 18:59:31 18 Q. Have you ever heard of the term 18:59:32 19 "blues," referencing Mallinckrodt oxycodone? 18:59:40 20 A. Yes. 18:59:43 21 Q. Okay. What do you understand 18:59:44 22 it to be a term for? 18:59:45 23 A. A street name for Mallinckrodt 18:59:46 24 oxycodone. 18:59:51 25 Q. Okay. And do you know if 18:59:53</p>

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1 that's 15 or 30s? 18:59:55

2 A. I testified earlier, I'm 18:59:57

3 certain that the 30s are blue, but I don't 18:59:58

4 know for certain the color of the 15s. 19:00:00

5 Q. Okay. Was there ever any 19:00:03

6 discussion amongst you and your colleagues 19:00:11

7 about pill mills popping up in Tennessee? 19:00:13

8 A. Yes. 19:00:16

9 Q. Okay. And who did you have 19:00:19

10 that discussion with? 19:00:20

11 A. It would have been the team. 19:00:21

12 We have a suspicious order monitoring team 19:00:23

13 meeting approximately once a month. 19:00:26

14 Q. Okay. And when did you discuss 19:00:29

15 Tennessee? 19:00:31

16 A. I don't have a date. 19:00:31

17 Q. Okay. Do you know how many 19:00:34

18 times you discussed Tennessee? 19:00:34

19 A. I do not. 19:00:35

20 Q. Okay. Do you know if you 19:00:37

21 discussed Tennessee recently? 19:00:38

22 A. I don't recall discussing it 19:00:40

23 recently. 19:00:43

24 Q. Okay. Do you know what the 19:00:44

25 substance was of the conversations about 19:00:45

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1 Tennessee? 19:00:47

2 A. So we looked at chargebacks in 19:00:48

3 a number of ways, Google Alerts 19:00:56

4 notwithstanding. 19:00:59

5 Q. Okay. 19:01:00

6 A. And so the chargeback reports 19:01:00

7 were sorted by state, so that would prompt a 19:01:05

8 review of the distributions by our customers 19:01:11

9 to end -- end downstream registrants within 19:01:16

10 certain states if the numbers met a certain 19:01:20

11 criteria. 19:01:24

12 Q. Okay. Okay. I'll get back to 19:01:25

13 that in just one second, the state sorting of 19:01:28

14 the chargeback data. 19:01:31

15 A. Okay. 19:01:32

16 Q. Other than sorting the 19:01:32

17 chargeback data by state, do you recall any 19:01:34

18 other substantive conversations about pill 19:01:36

19 mills in Tennessee? 19:01:38

20 A. It was mentioned at DEA 19:01:39

21 conferences. I don't specifically know which 19:01:42

22 one. 19:01:44

23 Q. Okay. 19:01:44

24 A. But we would have brought that 19:01:44

25 back to the suspicious order monitoring team, 19:01:46

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1 as we would have all the notes that were 19:01:50

2 pertinent, and discussed it relative to 19:01:52

3 suspicious order monitoring. 19:01:55

4 Q. Okay. Do you recall when that 19:01:56

5 DEA conference was? 19:01:57

6 A. I do not. 19:01:59

7 Q. Okay. But you think there 19:01:59

8 would have been notes on it? 19:02:01

9 A. I do not know. 19:02:02

10 Q. Okay. And do you recall what 19:02:05

11 they said about Tennessee at that DEA 19:02:08

12 conference? 19:02:11

13 A. Yes. 19:02:11

14 Q. What did they say? 19:02:12

15 A. The DEA showed an interactive 19:02:13

16 map of the migration of the abuse or misuse 19:02:23

17 of oxycodone pills emanating from Florida and 19:02:28

18 moving throughout different states. 19:02:32

19 Q. Okay. Do you recall anything 19:02:33

20 else they said about Tennessee? 19:02:41

21 A. No. 19:02:42

22 Q. Okay. And other than what 19:02:43

23 we've discussed, do you recall any other 19:02:45

24 conversations substantively about pill mills 19:02:47

25 in Tennessee? 19:02:50

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1 A. No. 19:02:50

2 Q. Okay. Okay. And I think I 19:02:51

3 might have asked you this question before, so 19:03:12

4 if I did, just tell me that I did, and I 19:03:16

5 apologize for asking it before. 19:03:20

6 Other than the discussion we 19:03:20

7 had talked about, the communication with the 19:03:23

8 officer from Morristown and you and 19:03:23

9 Mr. Ratliff, have you ever communicated with 19:03:25

10 any other law enforcement from Tennessee? 19:03:27

11 A. Not to my knowledge. 19:03:28

12 Q. Okay. And do you know if 19:03:29

13 anyone on your team ever did? 19:03:31

14 A. So I'd like to clarify the 19:03:33

15 previous answer. 19:03:34

16 Q. Sure. 19:03:34

17 A. So law enforcement officers 19:03:35

18 from various jurisdictions were members of 19:03:38

19 this National Association of Drug Diversion 19:03:41

20 Investigators. 19:03:44

21 Q. Okay. 19:03:44

22 A. And so they came to conferences 19:03:44

23 with us. 19:03:47

24 Q. Okay. 19:03:47

25 A. So I may have had a discussion 19:03:47

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1 with them as a member of law enforcement, 19:03:50
2 particularly if we were speaking at the 19:03:52
3 conference and talking about our placebo 19:03:59
4 program for law enforcement. 19:04:01
5 Q. Okay. But do you recall any 19:04:02
6 specific conversations with anyone from 19:04:04
7 Tennessee? 19:04:05
8 A. No. 19:04:05
9 Q. Okay. And other than that 19:04:06
10 conversation with the law enforcement officer 19:04:08
11 from Morristown about a specific 19:04:09
12 investigation, you don't recall any 19:04:12
13 communications about any other specific 19:04:14
14 investigations within Tennessee that you were 19:04:16
15 involved in? 19:04:18
16 A. No. 19:04:19
17 Q. Okay. Or anybody from your 19:04:19
18 team for that matter? 19:04:21
19 A. So I cannot speak -- I did 19:04:22
20 not -- I wasn't always privy. 19:04:25
21 Q. Okay. 19:04:26
22 A. If our security director, Bill 19:04:27
23 Ratliff, our current vice president of 19:04:31
24 security, John Gillies, was involved in an 19:04:33
25 investigation, but not to my knowledge. 19:04:36

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1 Q. Okay. Okay. And have you ever 19:04:37
2 reported any Tennessee pharmacies to 19:04:41
3 Tennessee law enforcement? 19:04:45
4 A. Not to my knowledge. 19:04:47
5 Q. Okay. Or to federal law 19:04:51
6 enforcement with jurisdiction over Tennessee? 19:04:54
7 A. Well, when we restrict the sale 19:04:57
8 of the processing of chargebacks to 19:05:01
9 pharmacies, that's reported to all 19:05:04
10 distributors and to DEA. 19:05:07
11 Q. Okay. But other than the DEA, 19:05:09
12 you didn't reach out to anybody at the 19:05:10
13 US Attorney's Office for the Eastern District 19:05:12
14 of Tennessee or anything like that? 19:05:14
15 A. No. 19:05:16
16 Q. Okay. Okay. And what about 19:05:16
17 any prescribers? Did you ever report any 19:05:20
18 Tennessee prescribers to any Tennessee law 19:05:22
19 enforcement? 19:05:24
20 A. Not to my knowledge. 19:05:25
21 Q. Okay. What about any Tennessee 19:05:26
22 prescribers to federal law enforcement? 19:05:29
23 A. Not to my knowledge. 19:05:31
24 Q. Okay. Do you know if 19:05:32
25 Mallinckrodt, you were involved at 19:05:39

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1 Mallinckrodt, with any Tennessee pharmacies 19:05:40
2 being reported to the DEA? 19:05:43
3 A. Again, if I researched the 19:05:44
4 chargeback-restricted pharmacies, perhaps, 19:05:50
5 but I would not have had any other 19:05:53
6 conversation than that. 19:05:55
7 Q. Okay. Do you know how many 19:05:55
8 Tennessee pharmacies have been put on 19:06:05
9 chargeback restriction? 19:06:06
10 A. I do not. 19:06:07
11 Q. Okay. 19:06:07
12 A. I'm saying no, I do not, again. 19:06:16
13 (Mallinckrodt-Harper Exhibit 36 19:06:24
14 marked for identification.) 19:06:25
15 QUESTIONS BY MS. HERZFELD: 19:06:25
16 Q. Okay. I'm going to mark this 19:06:25
17 as Plaintiff's Exhibit 36. It's Bates number 19:06:26
18 MNK_TNSTA00609639. 19:06:28
19 That front page is just a 19:06:34
20 placeholder. 19:06:45
21 If you look at the second one, 19:06:46
22 I will represent to you that we have searched 19:06:48
23 the chargeback restriction database and 19:06:51
24 sorted it by Tennessee. The title of the 19:06:53
25 document was "Mallinckrodt chargeback 19:07:01

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1 restriction, underscore, reinstatement list." 19:07:03
2 Are you familiar with a list 19:07:04
3 that's called that? 19:07:05
4 A. Yes. 19:07:06
5 Q. Okay. And are you responsible 19:07:06
6 for creating it? 19:07:07
7 A. No. 19:07:09
8 Q. Are you responsible for 19:07:10
9 maintaining it? 19:07:11
10 A. No. 19:07:11
11 Q. Do you have input into its 19:07:12
12 creation? 19:07:14
13 A. I have input into the 19:07:15
14 chargeback restriction or recisions. 19:07:20
15 Q. Okay. 19:07:22
16 A. And then someone else on our 19:07:22
17 team creates -- maintains the list. 19:07:23
18 Q. Okay. And you have access to 19:07:25
19 the list? 19:07:26
20 A. Yes. 19:07:26
21 Q. Okay. Okay. So looking at 19:07:27
22 this list, does it look like that is what it 19:07:28
23 is, Mallinckrodt chargeback restriction and 19:07:29
24 reinstatement list? 19:07:34
25 A. Yes. 19:07:35

<p style="text-align: right;">Page 498</p> <p>1 Q. And it shows one, two, three, 19:07:35</p> <p>2 four, five, six, seven, eight, it looks like, 19:07:42</p> <p>3 eight pharmacies that are on that list. 19:07:50</p> <p>4 Does that look correct to you? 19:07:52</p> <p>5 A. Yes. 19:07:53</p> <p>6 Q. Okay. And of that chargeback 19:07:55</p> <p>7 list, it looks like five were reinstated; is 19:08:11</p> <p>8 that correct? 19:08:14</p> <p>9 A. Yes. 19:08:14</p> <p>10 Q. Okay. And if there were 19:08:15</p> <p>11 pharmacies that were put on chargeback 19:08:18</p> <p>12 restriction in Tennessee, they would appear 19:08:19</p> <p>13 on this list; is that right? 19:08:21</p> <p>14 A. I'm assuming that the sort is 19:08:22</p> <p>15 correct, but given that, yes, they would be 19:08:25</p> <p>16 on this list. 19:08:27</p> <p>17 Q. Okay. And each one of these 19:08:28</p> <p>18 pharmacies that were put on chargeback 19:08:31</p> <p>19 restriction would have been reported to the 19:08:32</p> <p>20 DEA? 19:08:34</p> <p>21 A. Yes. 19:08:34</p> <p>22 Q. Okay. You can set that one 19:08:35</p> <p>23 aside, please, ma'am. 19:08:38</p> <p>24 Ma'am, was someone on your team 19:09:12</p> <p>25 responsible for checking with the Tennessee 19:09:14</p>	<p style="text-align: right;">Page 500</p> <p>1 Google Alerts and other information, you were 19:10:52</p> <p>2 aware that doctors were being arrested in 19:10:54</p> <p>3 Tennessee for improperly prescribing 19:10:57</p> <p>4 oxycodone; is that correct? 19:11:01</p> <p>5 A. Yes. 19:11:02</p> <p>6 Q. Okay. And based on those 19:11:07</p> <p>7 Google Alerts and other information, you also 19:11:10</p> <p>8 knew that some pharmacies were filling 19:11:11</p> <p>9 improper prescriptions in Tennessee for 19:11:14</p> <p>10 oxycodone; is that correct? 19:11:16</p> <p>11 MR. O'CONNOR: Objection to 19:11:17</p> <p>12 form. 19:11:18</p> <p>13 THE WITNESS: Yes. 19:11:18</p> <p>14 QUESTIONS BY MS. HERZFELD: 19:11:19</p> <p>15 Q. Okay. Okay. And when you 19:11:19</p> <p>16 talked earlier about chargeback data, I just 19:11:22</p> <p>17 want to make sure I understand that a little 19:11:24</p> <p>18 bit. 19:11:27</p> <p>19 You can sort chargeback data in 19:11:27</p> <p>20 all sorts of different ways, right? 19:11:29</p> <p>21 A. Yes. 19:11:30</p> <p>22 Q. Okay. So you can sort it, I 19:11:30</p> <p>23 think we talked about, by state; is that 19:11:32</p> <p>24 correct? 19:11:35</p> <p>25 A. Yes. 19:11:35</p>
<p style="text-align: right;">Page 499</p> <p>1 boards of medical examiners or the Tennessee 19:09:16</p> <p>2 Board of Pharmacy about specific pharmacies? 19:09:19</p> <p>3 A. John Gillies, our vice 19:09:23</p> <p>4 president of security, may have done that, 19:09:30</p> <p>5 but I don't know -- he's retired from the 19:09:33</p> <p>6 FBI, so he had different resources than the 19:09:39</p> <p>7 rest of the team. And some of his 19:09:42</p> <p>8 contributions to the team we didn't under -- 19:09:45</p> <p>9 know his methodology or have that pathway. 19:09:51</p> <p>10 Q. Okay. But to your knowledge, 19:09:55</p> <p>11 he didn't routinely -- nobody routinely 19:09:56</p> <p>12 checked with the various state boards of 19:10:00</p> <p>13 licensing for pharmacies to find out what's 19:10:03</p> <p>14 going on with pharmacies in a particular 19:10:05</p> <p>15 state? 19:10:08</p> <p>16 MR. O'CONNOR: Object to form. 19:10:09</p> <p>17 THE WITNESS: Correct. 19:10:09</p> <p>18 QUESTIONS BY MS. HERZFELD: 19:10:10</p> <p>19 Q. And what about the doctor 19:10:10</p> <p>20 licensing boards for each state? Was there 19:10:12</p> <p>21 routine audit of the doctor licensing boards 19:10:14</p> <p>22 of each state within your team, to your 19:10:17</p> <p>23 knowledge? 19:10:20</p> <p>24 A. Not to my knowledge. 19:10:20</p> <p>25 Q. Okay. And based on those 19:10:21</p>	<p style="text-align: right;">Page 501</p> <p>1 Q. Okay. And can you sort it by 19:11:36</p> <p>2 time -- various time periods? 19:11:39</p> <p>3 A. Yes. 19:11:41</p> <p>4 Q. Okay. And can you sort it by 19:11:42</p> <p>5 ZIP code? 19:11:44</p> <p>6 A. Yes. 19:11:45</p> <p>7 Q. Okay. And you can sort it by 19:11:46</p> <p>8 per capita? 19:11:49</p> <p>9 MR. O'CONNOR: Objection to 19:11:51</p> <p>10 form. 19:11:53</p> <p>11 THE WITNESS: We did that for a 19:11:53</p> <p>12 period of time. 19:11:55</p> <p>13 QUESTIONS BY MS. HERZFELD: 19:11:57</p> <p>14 Q. Okay. 19:11:57</p> <p>15 A. We know -- I don't believe that 19:11:58</p> <p>16 we currently use the per capita information. 19:11:59</p> <p>17 Q. Okay. Do you know when you 19:12:01</p> <p>18 stopped using the per capita information? 19:12:03</p> <p>19 A. I'm so sorry, I do not. 19:12:05</p> <p>20 Q. Okay. Do you know why you 19:12:08</p> <p>21 stopped using the per capita information? 19:12:08</p> <p>22 A. I do not. 19:12:10</p> <p>23 Q. Okay. And you can sort it by 19:12:15</p> <p>24 pharmacies; is that correct? 19:12:16</p> <p>25 A. Yes. 19:12:17</p>

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1 Q. Okay. And I think you said 19:12:17
2 before if you wanted to, and for a period of 19:12:19
3 time you did, monitor physicians via IMS 19:12:23
4 data? 19:12:27
5 MR. O'CONNOR: Objection. 19:12:27
6 THE WITNESS: Yes. 19:12:28
7 (Mallinckrodt-Harper Exhibit 37 19:13:25
8 marked for identification.) 19:13:26
9 QUESTIONS BY MS. HERZFELD: 19:13:26
10 Q. Okay. Ms. Harper, I am going 19:13:27
11 to mark you -- hand you what we will mark as 19:13:31
12 plaintiff's next exhibit, which is number 37. 19:13:33
13 For the record, it's 19:13:37
14 MNK_TNSTA05340154. It is a two-page 19:13:43
15 document. 19:13:50
16 You want to start from the back 19:14:01
17 forward. Oh, you've got it. Good. Very 19:14:02
18 good. 19:14:04
19 A. Yes, ma'am. 19:14:04
20 Q. Great. Thank you. 19:14:05
21 And take your time. Read 19:14:07
22 through it. 19:14:11
23 MR. O'CONNOR: Counsel, can we 19:14:39
24 go off the record for a minute? 19:14:41
25 MS. HERZFELD: Sure. 19:14:42

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1 VIDEOGRAPHER: We are going off 19:14:43
2 the record at 7:14 p m. 19:14:44
3 (Off the record at 7:14 p m.) 19:14:46
4 VIDEOGRAPHER: We are back on 19:15:26
5 the record at 7:15 p m. 19:15:27
6 MR. O'CONNOR: And, Counsel, as 19:15:29
7 we discussed, I'm going to object to 19:15:30
8 the use of this document. It appears 19:15:33
9 to be protected by the attorney-client 19:15:34
10 privilege and was inadvertently 19:15:37
11 produced, and we'll be making a 19:15:37
12 clawback request to retrieve the 19:15:39
13 document. 19:15:40
14 MS. HERZFELD: Okay. And we'll 19:15:41
15 discuss it at a later time. 19:15:43
16 I just have one question for 19:15:44
17 you, ma'am. 19:15:46
18 QUESTIONS BY MS. HERZFELD: 19:15:46
19 Q. Do you know if Tennessee was a 19:15:47
20 state that was specifically being monitored 19:15:47
21 as one of a number of states by Mallinckrodt 19:15:51
22 for high volume oxycodone sales? 19:15:54
23 A. Yes. 19:15:57
24 Q. Okay. Thank you very much. 19:15:57
25 You can move that aside. 19:15:59

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1 Do you know why Tennessee was 19:16:00
2 one of those states? 19:16:01
3 A. So our program monitors all 19:16:02
4 states, all 50 states. 19:16:08
5 Q. Okay. But at some point were 19:16:10
6 Kentucky, Tennessee, Ohio, Florida and Texas 19:16:12
7 singled out for specific review? 19:16:20
8 A. I don't recall. 19:16:22
9 (Mallinckrodt-Harper Exhibit 38 19:16:22
10 marked for identification.) 19:16:59
11 QUESTIONS BY MS. HERZFELD: 19:16:59
12 Q. Okay. I'm going to hand you 19:16:22
13 what we will mark as Plaintiff's Exhibit 38. 19:16:57
14 It's MNK_TNSTA05337163. 19:17:00
15 Okay. And is this an e-mail 19:17:07
16 that you sent on May 13, 2011? 19:17:36
17 A. Yes. 19:17:40
18 Q. Okay. And with it, it looks 19:17:43
19 like the attachments are oxy percentage of 19:17:45
20 sales by dist state master spreadsheet and 19:17:48
21 hydro percentage of sales by state master 19:17:52
22 spreadsheet. 19:17:55
23 Do you see where I'm at? 19:17:55
24 A. Yes. 19:17:56
25 Q. Okay. And it says, "Georgia 19:17:57

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1 has been added to the statistics per Pat's 19:18:00
2 request." 19:18:03
3 Did I read that correctly? 19:18:03
4 A. Yes. 19:18:04
5 Q. Who's Pat? 19:18:04
6 A. She's one of our attorneys. 19:18:04
7 Q. Okay. And you know 19:18:07
8 Tennessee -- if you'll look with me to the 19:18:11
9 second page, you'll see a chart that talks 19:18:13
10 about the personnel of hydrocodone sales in 19:18:24
11 Tennessee from 10/2007 till 2/1/2011. 19:18:25
12 Do you see where I'm at? 19:18:31
13 A. Yes. 19:18:32
14 Q. Okay. Do you know why the 19:18:33
15 percentage of hydrocodone sales were being 19:18:34
16 monitored in Tennessee? 19:18:36
17 A. So I'd like to note, please, 19:18:37
18 from where this graph came. Was it part of 19:18:42
19 this packet? 19:18:45
20 Q. I believe so, yes, ma'am. I 19:18:47
21 didn't create it. 19:18:49
22 A. Okay. All right. 19:18:50
23 So will you please repeat the 19:18:52
24 question? Sorry. 19:18:54
25 Q. Sure. That's okay. 19:18:55

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1	Do you know why the percentage	19:18:56
2	of hydrocodone sales were being monitored in	19:18:57
3	Tennessee by Mallinckrodt?	19:18:59
4	A. I do not know.	19:19:00
5	Q. Okay. But they were?	19:19:01
6	A. Yes.	19:19:03
7	Q. Okay. And it was not	19:19:04
8	necessarily all 50 states that were pulled	19:19:07
9	out for these specific looks?	19:19:09
10	A. I do not know that.	19:19:11
11	Q. Okay. Let's go through and	19:19:12
12	look.	19:19:13
13	So after this chart that you're	19:19:14
14	on, if you'll flip with me to the next page,	19:19:16
15	it says page 1 at the bottom?	19:19:18
16	A. Yes.	19:19:20
17	Q. Okay. So looking at hydro	19:19:20
18	sales here, it looks like we're looking at	19:19:22
19	the state of?	19:19:25
20	A. Florida.	19:19:26
21	Q. Okay. And two pages later, the	19:19:27
22	one that says page 3, it looks like we're	19:19:32
23	looking at the state of?	19:19:35
24	A. Oh, I'm sorry. Texas.	19:19:36
25	Q. Okay.	19:19:36

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1	through March of 2011; is that right?	19:20:29
2	A. Yes.	19:20:31
3	Q. Okay. And then on page 11, the	19:20:33
4	state is?	19:20:41
5	A. Georgia.	19:20:42
6	Q. Okay. And those are the only	19:20:44
7	states that were included in this handout.	19:20:45
8	So do you know if there was	19:20:48
9	a -- do you know why those states were	19:20:50
10	particularly singled out to have these	19:20:52
11	reports run?	19:20:55
12	A. I do not.	19:20:55
13	Q. Okay. Was there anything about	19:20:56
14	opioid sales to these states that was of	19:20:59
15	note?	19:21:01
16	A. No. And unfortunately I	19:21:02
17	don't -- I don't understand -- I don't recall	19:21:05
18	this report --	19:21:08
19	Q. Okay.	19:21:08
20	A. -- and I don't understand this	19:21:08
21	unit of measure, this percentage.	19:21:11
22	Q. Okay.	19:21:13
23	A. I just don't understand what	19:21:14
24	this page is telling --	19:21:15
25	Q. Okay.	19:21:16

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1	A. Yes.	19:19:39
2	Q. Okay. And flip two more pages	19:19:40
3	with me to page 5.	19:19:42
4	Okay. And that is the state	19:19:44
5	of?	19:19:45
6	A. Ohio.	19:19:46
7	Q. Okay. Keep flipping.	19:19:46
8	Page 7. That's the state of?	19:19:49
9	A. Kentucky.	19:19:52
10	Q. Okay. And this is -- looks	19:19:54
11	like the percentage of hydro sales by	19:19:55
12	distributor; is that right?	19:19:57
13	A. Yes.	19:19:58
14	Q. Okay. Keep flipping.	19:19:59
15	Page 9, and the state there is?	19:20:01
16	A. Tennessee.	19:20:05
17	Q. Tennessee. There we go.	19:20:06
18	And that is the percentage of	19:20:08
19	sales by distributor on that chart; is that	19:20:09
20	correct?	19:20:15
21	A. Yes, the chart states that.	19:20:15
22	Q. Okay. And the chart appears to	19:20:20
23	monitor this information from October 2007	19:20:21
24	through March of 2010 on this page going	19:20:24
25	through to the second page, all the way	19:20:27

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1	A. -- me.	19:21:17
2	Q. But you don't doubt that you	19:21:17
3	sent the e-mail with the attachments?	19:21:18
4	A. No, I don't doubt it.	19:21:21
5	Q. Okay. Okay. So flipping	19:21:25
6	through to the next one, kind of leaving	19:21:26
7	where we -- stopping where we left off and	19:21:28
8	going back to where we were, if you'll just	19:21:31
9	keep going.	19:21:33
10	A. What page? Keep going?	19:21:33
11	Q. Uh-huh. I can help you out if	19:21:35
12	you want.	19:21:37
13	A. Okay, certainly.	19:21:38
14	Q. Yeah. Yeah. Make it a little	19:21:38
15	easier for you. Keep you from paper cuts.	19:21:39
16	There we go.	19:21:45
17	Okay. And then so -- then on	19:21:46
18	this chart, it looks like the second	19:21:47
19	attachment there is the percentage of	19:21:50
20	oxycodone sales for Tennessee.	19:21:52
21	Do you see that?	19:21:53
22	A. Yes.	19:21:53
23	Q. And that's broken down by	19:21:54
24	distributor from 10/1/2007 till 10/1/2011; is	19:21:56
25	that right?	19:22:02

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1	A. Yes. 19:22:02	1	Q. Do you know if they're located 19:24:13
2	Q. Okay. And I will posit to you, 19:22:02	2	in Miami? 19:24:14
3	and if we flip through, it's the same charts 19:22:06	3	A. I don't know. 19:24:15
4	breaking down the percentage of oxycodone to 19:22:09	4	Q. Okay. Flipping to the third 19:24:17
5	various states by distributor for Florida, 19:22:13	5	page that says MNK-T1_0007026595. State 19:24:19
6	Texas, Ohio, Kentucky, Tennessee and Georgia, 19:22:18	6	ranking for hydrocodone, total dosage units 19:24:26
7	those same states. 19:22:33	7	sold to retail, January 1, 2010, through 19:24:30
8	Does that look to be correct? 19:22:35	8	December 31, 2011. 19:24:34
9	MR. O'CONNOR: You can answer 19:22:39	9	Do you see where I'm at? 19:24:35
10	the question. 19:22:39	10	A. Yes. 19:24:36
11	THE WITNESS: Yes. 19:22:40	11	Q. Could you tell me what number 19:24:37
12	QUESTIONS BY MS. HERZFELD: 19:22:40	12	Tennessee is, ma'am? 19:24:38
13	Q. Okay. Yes? 19:22:41	13	A. Tennessee is the third ranking. 19:24:39
14	MR. O'CONNOR: Counsel, since 19:22:42	14	Q. Okay. Great. Thank you very 19:24:46
15	we just finished that page, I notice 19:22:43	15	much. 19:24:47
16	there appears to be an unrelated 19:22:45	16	And the next page, state 19:24:47
17	document attached to the back. 19:22:47	17	ranking for oxycodone. This one ends with 19:24:49
18	MS. HERZFELD: I do see that. 19:22:48	18	6596. Total dosage units sold to retail on 19:24:56
19	I do. That's interesting. 19:22:50	19	January 1, 2010, through December 31, 2011. 19:25:03
20	Okay. Let's pull off this 19:22:51	20	And do you see that what number 19:25:07
21	unrelated document, because I think 19:22:55	21	Tennessee is on this list, ma'am? 19:25:08
22	that's supposed to be separate. 19:22:55	22	A. It is -- I have a question 19:25:10
23	My apologies for having some 19:22:59	23	about the document, please. 19:25:11
24	exhibit problems today. You can tell 19:23:01	24	Q. Sure. 19:25:12
25	I'm having exhibit problems today. 19:23:04	25	A. This says Drug Enforcement 19:25:12
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1	There we go. Just make this 19:23:07	1	Administration. 19:25:14
2	next one Exhibit 39. 19:23:08	2	Q. Yes, ma'am. 19:25:14
3	(Mallinckrodt-Harper Exhibit 39 19:23:12	3	A. So it's something DEA 19:25:14
4	marked for identification.) 19:23:12	4	published. 19:25:16
5	MS. HERZFELD: And for those in 19:23:17	5	Q. Okay. 19:25:16
6	the cheap seats, it's 19:23:18	6	A. So that would include, am I 19:25:17
7	MNK-T1_0007026593. 19:23:22	7	correct, all manufacturers of all products? 19:25:19
8	Thank you for pointing that 19:23:27	8	Q. Ma'am, you're the one who 19:25:22
9	out, Andrew. 19:23:29	9	forwarded this, so I wouldn't know. 19:25:24
10	MR. O'CONNOR: You're welcome. 19:23:31	10	A. Oh, we did? 19:25:25
11	QUESTIONS BY MS. HERZFELD: 19:23:32	11	Q. Yeah, I'm going to back up. 19:25:27
12	Q. Okay. So looking at this next 19:23:36	12	Okay. Let me ask this question first, and 19:25:29
13	document, this is an e-mail that you sent to 19:23:38	13	then we'll back up so you clarify that. 19:25:30
14	Anthony Rattini on 10/14/2013; is that 19:23:40	14	A. Okay. 19:25:32
15	correct? 19:23:45	15	Q. So what number is Tennessee on 19:25:32
16	A. Yes. 19:23:45	16	this state ranking for oxycodone in 2011? 19:25:34
17	Q. Okay. And who is Anthony 19:23:47	17	A. Number 9. 19:25:38
18	Rattini? 19:23:58	18	Q. Okay. And in 2000 -- okay. 19:25:39
19	A. He is, or was, a representative 19:23:58	19	Great. Thank you. 19:25:49
20	we spoke to at Miami-Luken. 19:24:03	20	A. Okay. 19:25:49
21	Q. And Miami-Luken is what? 19:24:06	21	Q. Okay. Now going back to what I 19:25:49
22	A. It's a distributor. 19:24:09	22	think what was your concern. If you back to 19:25:50
23	Q. Okay. And do you know where 19:24:10	23	the very first page, which was the e-mail. 19:25:53
24	they're located? 19:24:12	24	If you read the e-mail, it's an 19:25:55
25	A. I do not. 19:24:12	25	e-mail from you, right? 19:25:56

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1	A. Yes.	19:25:57	1	MR. O'CONNOR: Objection to	19:28:07
2	Q. Okay. It says, "Hi, Tony. It	19:25:58	2	form.	19:28:08
3	was very good to speak with you today, and	19:26:02	3	THE WITNESS: So we reviewed	19:28:08
4	I'm looking forward to finally meeting you in	19:26:03	4	all the data for all the states, so it	19:28:09
5	person next week at the DEA conference. The	19:26:05	5	was among those that were of concern.	19:28:13
6	first PDF attached was pulled from the DEA	19:26:06	6	QUESTIONS BY MS. HERZFELD:	19:28:16
7	web page USDOJ.gov, a recent presentation	19:26:10	7	Q. Okay. And why was that of	19:28:16
8	made to HDMA as indicated below. The second	19:26:13	8	concern?	19:28:18
9	PDF was extracted from DEA web page also,	19:26:17	9	A. So which charts are we talking	19:28:18
10	registrant population information pharmacy	19:26:19	10	about, these last ones from DEA?	19:28:21
11	registrations."	19:26:22	11	Q. Yes.	19:28:23
12	Did I read that correctly?	19:26:22	12	A. So I'd like to add that since	19:28:24
13	A. Yes.	19:26:23	13	these were from DEA, all manufacturers -- and	19:28:29
14	Q. Okay. So it looks like you	19:26:23	14	there were certain areas of the country that	19:28:33
15	attached both of these as attachments to the	19:26:25	15	Mallinckrodt may have had zero of the market.	19:28:35
16	e-mail you sent to Mr. Rattini; is that	19:26:28	16	There are other hydrocodone manufacturers and	19:28:39
17	correct?	19:26:31	17	oxycodone manufacturers. So, yes, we studied	19:28:42
18	A. Yes.	19:26:31	18	these graphs as a tool within our program,	19:28:45
19	Q. Okay. And what is HDMA?	19:26:32	19	yes.	19:28:48
20	A. It's Healthcare Distribution	19:26:40	20	Q. Okay. But if we go back to,	19:28:48
21	Management Association.	19:26:44	21	let's see, this one, I think. Yeah,	19:28:51
22	Q. Okay. Okay. Moving on. You	19:26:44	22	Exhibit 35.	19:28:59
23	can get rid of that one.	19:26:55	23	You agreed with me before that	19:28:59
24	Okay. Was Mallinckrodt	19:26:57	24	one of the states that Mallinckrodt was	19:29:01
25	concerned about the number of opioids that it	19:27:14	25	monitoring was Tennessee; is that right?	19:29:02
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1	was shipping to Tennessee?	19:27:16	1	A. Yes. Yes.	19:29:03
2	MR. O'CONNOR: Objection to	19:27:18	2	Q. Okay. And so based on	19:29:03
3	form.	19:27:19	3	Mallinckrodt's own documentation here in	19:29:05
4	THE WITNESS: It's a broad	19:27:20	4	Exhibit 35, you were monitoring Tennessee	19:29:08
5	question, so can you -- I'm sorry, I	19:27:26	5	specifically for opioid sales; is that	19:29:12
6	can't answer.	19:27:30	6	correct?	19:29:15
7	QUESTIONS BY MS. HERZFELD:	19:27:30	7	A. Yes.	19:29:15
8	Q. Sure. Okay. I'll try to --	19:27:31	8	Q. Okay. Okay. You can set that	19:29:19
9	I'll try to narrow it a little bit.	19:27:34	9	aside.	19:29:22
10	It looks like Tennessee,	19:27:35	10	(Mallinckrodt-Harper Exhibit 40	19:29:29
11	according to some of the charts we've seen,	19:27:37	11	marked for identification.)	19:29:30
12	has been at the higher level of numbers of	19:27:38	12	QUESTIONS BY MS. HERZFELD:	19:29:30
13	opioids being shipped to it; is that correct?	19:27:43	13	Q. Okay. I'm going to hand you	19:29:30
14	MR. O'CONNOR: Objection to	19:27:45	14	what we'll mark as Exhibit 40. And this is	19:29:33
15	form.	19:27:46	15	MNK_TNSTA05126722 through 6735. It's front	19:29:39
16	THE WITNESS: Yes.	19:27:46	16	and back document.	19:29:53
17	QUESTIONS BY MS. HERZFELD:	19:27:47	17	That type is very, very small,	19:29:55
18	Q. Okay. And was that concerning	19:27:48	18	so we'll read through it together if you	19:30:24
19	to Mallinckrodt, that Tennessee was -- or	19:27:49	19	don't mind.	19:30:28
20	concerning to you? Was that concerning --	19:27:52	20	So the one that says page 1,	19:30:29
21	strike that.	19:27:54	21	let's start there. Okay.	19:30:30
22	Was it concerning to you in	19:27:54	22	At the very top line under	19:30:33
23	your position at Mallinckrodt that Tennessee	19:27:58	23	where it says A, B and C, what is the title	19:30:34
24	was amongst the higher numbers for opioid	19:28:00	24	there? Do you see it, line 1?	19:30:37
25	sales by Mallinckrodt?	19:28:05	25	A. Yes.	19:30:39

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<p>1 Q. What is it? 19:30:39</p> <p>2 A. 30-milligram oxy, sum of sales, 19:30:40</p> <p>3 dosage units by state. 19:30:45</p> <p>4 Q. Okay. So looking at that, it 19:30:46</p> <p>5 looks like Mallinckrodt was tracking the 19:30:49</p> <p>6 oxy 30 sales by state in 2009, 2010 and 2011; 19:30:51</p> <p>7 is that correct? 19:30:58</p> <p>8 A. I see 2010 and I see 2000 -- 19:30:58</p> <p>9 2011. I don't see 2009 on the chart. 19:31:14</p> <p>10 Q. Okay. I'll show you right 19:31:16</p> <p>11 here. 19:31:17</p> <p>12 A. Okay. 19:31:17</p> <p>13 Q. Right under B? 19:31:18</p> <p>14 A. Okay. I see it now, thank you, 19:31:25</p> <p>15 yes. 19:31:26</p> <p>16 Q. 2009, 2010, 2011. 19:31:26</p> <p>17 A. Yeah. 19:31:26</p> <p>18 Q. Okay. And what number is 19:31:29</p> <p>19 Tennessee on this list? 19:31:30</p> <p>20 A. This list indicates -- 19:31:31</p> <p>21 Tennessee is seventh listed, but this is by 19:31:46</p> <p>22 sales dollars, am I correct, not dosage 19:31:51</p> <p>23 units? 19:31:54</p> <p>24 Q. It says -- it says sum of sales 19:31:54</p> <p>25 dosage units by state, so... 19:31:56</p>	<p>1 me, please? 19:32:54</p> <p>2 A. Yes. 42 percent. 19:32:56</p> <p>3 Q. Okay. And then 2011 increase? 19:32:57</p> <p>4 A. 11 percent. 19:33:00</p> <p>5 Q. Okay. And then going over 19:33:03</p> <p>6 exactly -- stay on that exact line and go 19:33:05</p> <p>7 over one, and then we're at 15-milligram oxy, 19:33:07</p> <p>8 sum of sales dosage units by state. And 19:33:11</p> <p>9 we're still at number 7 here, Tennessee. 19:33:13</p> <p>10 Do you see that? 19:33:16</p> <p>11 A. I'd like to use a piece of 19:33:17</p> <p>12 paper -- 19:33:18</p> <p>13 Q. Yeah, sure. It will certainly 19:33:18</p> <p>14 make it easier. 19:33:20</p> <p>15 A. I'm sorry. I just had eye 19:33:21</p> <p>16 surgery. I'm sorry. 19:33:26</p> <p>17 Q. For sure. And I'm not trying 19:33:28</p> <p>18 to make this difficult on you. 19:33:30</p> <p>19 A. Okay. I'm on line 7. 19:33:31</p> <p>20 Q. Okay. And so it shows the 15 19:33:33</p> <p>21 on line 7. Then it says percentage of grand 19:33:35</p> <p>22 total there under Q4, .49 percent; is that 19:33:37</p> <p>23 right? 19:33:41</p> <p>24 A. Yes. 19:33:41</p> <p>25 Q. Okay. And then it says units 19:33:42</p>
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<p>1 Okay. So it says Tennessee is 19:32:08</p> <p>2 number 7; is that right? 19:32:11</p> <p>3 A. Yes, it does say that. 19:32:12</p> <p>4 Q. Okay. And then if you go over 19:32:16</p> <p>5 a couple blocks here, it has the various 19:32:17</p> <p>6 numbers. Then it says grand percent total, 19:32:22</p> <p>7 3.64 percent. 19:32:24</p> <p>8 Do you see where that's at? 19:32:26</p> <p>9 A. I'm having a hard time tracking 19:32:28</p> <p>10 you. 19:32:31</p> <p>11 Q. I know, it's so small. 19:32:32</p> <p>12 A. On the chart. 19:32:33</p> <p>13 Q. Do you want to use a piece of 19:32:34</p> <p>14 paper? 19:32:35</p> <p>15 A. Can you give me a column header 19:32:35</p> <p>16 name? 19:32:37</p> <p>17 Q. Uh-huh, sure. Okay. So let's 19:32:39</p> <p>18 look at -- we're at number 7, and G. So 7 G. 19:32:40</p> <p>19 A. Okay. Yes, I see it. 19:32:43</p> <p>20 Q. Okay. And so it says grand 19:32:47</p> <p>21 total percent is 3.64 percent; is that right? 19:32:48</p> <p>22 A. Yes. 19:32:51</p> <p>23 Q. Okay. And then it says 2010 19:32:51</p> <p>24 increase. 19:32:53</p> <p>25 Can you read that next one for 19:32:53</p>	<p>1 per capita, 1.87; is that correct? 19:33:44</p> <p>2 A. Yes. 19:33:47</p> <p>3 Q. Units per capita rank, 19:33:48</p> <p>4 number 5; is that correct? 19:33:52</p> <p>5 A. Yes. 19:33:53</p> <p>6 Q. Population rank, 17. 19:33:54</p> <p>7 And then it goes through the 19:33:58</p> <p>8 census population through 2010, 2000, 1990. 19:34:02</p> <p>9 Do you see that? 19:34:06</p> <p>10 A. Yes. 19:34:07</p> <p>11 Q. I want to make sure I am 19:34:07</p> <p>12 staying on the right line. 19:34:09</p> <p>13 And then it says percentage of 19:34:10</p> <p>14 US total, 2.03 percent. 19:34:12</p> <p>15 Do you see that? 19:34:15</p> <p>16 A. Yes. 19:34:15</p> <p>17 Q. Okay. Then if you go -- follow 19:34:15</p> <p>18 that line all the way to the very end. It 19:34:20</p> <p>19 ranks by density and population, and then it 19:34:22</p> <p>20 says units adjusted for density, 8.85. 19:34:26</p> <p>21 Do you see that? 19:34:30</p> <p>22 A. Yes. 19:34:31</p> <p>23 Q. Okay. And did you create this 19:34:33</p> <p>24 chart? 19:34:35</p> <p>25 A. I did not. I don't understand 19:34:35</p>

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1	it. I did not. 19:34:38	1	A. Well, I do not. 19:36:06
2	Q. Okay. 19:34:39	2	Q. Okay. Okay. You can set it 19:36:14
3	A. No. 19:34:39	3	aside. Thank you. 19:36:15
4	Q. Does it appear to be on 19:34:39	4	MR. O'CONNOR: Counsel, as 19:36:19
5	monitoring chargeback data by state and 19:34:42	5	we're getting close to the end here, 19:36:19
6	population? 19:34:45	6	maybe it's time to take a break. I 19:36:21
7	A. I don't know. It's monitoring 19:34:45	7	think we've been going at it for quite 19:36:25
8	by state and by population, but, again, is it 19:34:54	8	a while. 19:36:27
9	dosage units or dollars. I don't know the 19:34:58	9	MS. HERZFELD: How long have I 19:36:28
10	units of measure for certain. 19:35:02	10	been going?
11	Q. Okay. But other than that, not 19:35:04	11	VIDEOGRAPHER: A little over an
12	knowing what the unit of measure is, you 19:35:06	12	hour. Hour and ten minutes.
13	recognize this as chargeback data by state 19:35:09	13	MS. HERZFELD: Oh, we can take
14	and population? 19:35:11	14	a break, yeah, but -- yeah, sure,
15	A. I don't recognize where the 19:35:13	15	okay. Yeah, we can take a break.
16	data came from, I'm sorry. 19:35:17	16	VIDEOGRAPHER: We are going off 19:36:33
17	Q. Okay. 19:35:18	17	the record at 7:36 p m. 19:36:34
18	A. I just don't. 19:35:18	18	(Off the record at 7:36 p m.) 19:36:35
19	Q. So have you seen this chart 19:35:19	19	VIDEOGRAPHER: We are back on 19:45:27
20	before? 19:35:21	20	the record at 7:45 p m. 19:45:28
21	A. No. 19:35:21	21	QUESTIONS BY MS. HERZFELD: 19:45:30
22	Q. Have you -- did you have 19:35:22	22	Q. Okay. Great. 19:45:30
23	reports run like this before? 19:35:24	23	Ms. Harper, we're back on the 19:45:31
24	A. No. 19:35:26	24	record after a quick break. I have a couple 19:45:34
25	Q. Do you know if anybody on your 19:35:26	25	more questions for you. Hopefully we'll get 19:45:37
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1	team did? 19:35:27	1	you out of here relatively quickly. 19:45:39
2	A. I do not know. 19:35:28	2	I'm done with that exhibit, so 19:45:41
3	Q. Okay. When you save things on 19:35:31	3	you can set it aside. 19:45:43
4	a computer in your team back in 2010, 2011, 19:35:34	4	I have a question about the 19:45:45
5	would you have a share drive? 19:35:38	5	branded side of Mallinckrodt. 19:45:51
6	A. Yes. 19:35:40	6	Did you deal at all with them? 19:45:52
7	Q. Okay. Would it have certain 19:35:40	7	A. On a fairly limited basis. 19:45:54
8	folders in it? 19:35:43	8	Q. Okay. And what was your 19:45:56
9	A. Yes. 19:35:43	9	involvement with the branded side? 19:45:58
10	Q. You put stuff in a folder? 19:35:44	10	A. Only to the extent that they 19:46:00
11	Was there a folder for 19:35:45	11	sold branded products that were narcotics. 19:46:06
12	suspicious order monitoring? 19:35:47	12	Q. Okay. So like Exalgo or 19:46:10
13	A. Yes, and I do see the title. 19:35:47	13	Xartemis? 19:46:13
14	Q. Yes, ma'am. 19:35:49	14	A. Yes. 19:46:15
15	A. I see that. 19:35:50	15	Q. Okay. And so I'm going to ask 19:46:15
16	Q. Uh-huh. 19:35:51	16	you some questions about that just to figure 19:46:18
17	A. And certainly I can read it, 19:35:52	17	out if there's -- what your role is. 19:46:19
18	but I -- I don't recall seeing or utilizing 19:35:54	18	Okay? 19:46:20
19	this spreadsheet or requesting this 19:35:58	19	A. Okay. 19:46:21
20	spreadsheet, although I do see that the file 19:36:00	20	Q. So the branded side had target 19:46:22
21	name indicates that. 19:36:02	21	pharmacy lists; is that correct? 19:46:26
22	Q. Okay. 19:36:03	22	A. I don't know. 19:46:27
23	A. Yes. 19:36:03	23	Q. Okay. Were you ever involved 19:46:28
24	Q. Do you have any reason to think 19:36:04	24	in reviewing target pharmacy lists from the 19:46:30
25	that it's not accurate? 19:36:05	25	branded sided? 19:46:33

<p style="text-align: right;">Page 526</p> <p>1 A. So I'm going to -- I'm going to 19:46:34</p> <p>2 clarify my previous answer. 19:46:36</p> <p>3 Q. Sure. 19:46:37</p> <p>4 A. Because, yes, I believe they 19:46:39</p> <p>5 had -- I don't know what they were called -- 19:46:42</p> <p>6 Q. Okay. 19:46:42</p> <p>7 A. -- but they -- did you say 19:46:44</p> <p>8 pharmacies? 19:46:45</p> <p>9 Q. Yes, ma'am. 19:46:45</p> <p>10 A. I'm not certain about that. 19:46:46</p> <p>11 Q. Okay. What about physicians? 19:46:48</p> <p>12 A. Yes. 19:46:49</p> <p>13 Q. Okay. 19:46:50</p> <p>14 A. Yes. Yes. 19:46:50</p> <p>15 Q. And do you -- what was your 19:46:51</p> <p>16 involvement in reviewing those target 19:46:54</p> <p>17 physician lists? 19:46:56</p> <p>18 A. When we had -- when we were 19:46:57</p> <p>19 using the top prescriber list from the IMS 19:47:02</p> <p>20 data, we would vet that against the speakers 19:47:06</p> <p>21 list. 19:47:13</p> <p>22 Q. Okay. And what's the speakers 19:47:13</p> <p>23 list? 19:47:18</p> <p>24 A. Those were speakers that -- and 19:47:18</p> <p>25 I don't know very much about the program, but 19:47:21</p>	<p style="text-align: right;">Page 528</p> <p>1 Q. Okay. And top prescribers for 19:48:27</p> <p>2 Mallinckrodt products, those prescriptions 19:48:31</p> <p>3 could have been legitimate; is that right? 19:48:32</p> <p>4 A. Yes. 19:48:34</p> <p>5 Q. Okay. And those prescriptions 19:48:35</p> <p>6 also could have been illegitimate? 19:48:37</p> <p>7 A. And I'd like to qualify that. 19:48:40</p> <p>8 Q. Yes, ma'am. 19:48:41</p> <p>9 A. So our top prescriber list -- 19:48:42</p> <p>10 Q. Yes, ma'am. 19:48:44</p> <p>11 A. -- I don't know if that was 19:48:45</p> <p>12 exclusive to Mallinckrodt product, but it was 19:48:46</p> <p>13 for oxy 15 and oxy 30. 19:48:47</p> <p>14 Q. Okay. So for the folks that 19:48:50</p> <p>15 were the top prescribers of oxy 15 and 19:48:53</p> <p>16 oxy 30, those could be legitimate doctors. 19:48:56</p> <p>17 They could be at the top of the list; is that 19:48:58</p> <p>18 right? 19:49:01</p> <p>19 A. Correct. 19:49:01</p> <p>20 Q. Or those could be people who 19:49:01</p> <p>21 were operating pill mills. They could also 19:49:03</p> <p>22 be at the top of the list? 19:49:05</p> <p>23 A. Potentially, yes. 19:49:06</p> <p>24 Q. Okay. And did Mallinckrodt 19:49:07</p> <p>25 have a way of figuring that out? 19:49:11</p>
<p style="text-align: right;">Page 527</p> <p>1 that Mallinckrodt employed to speak on our -- 19:47:23</p> <p>2 I don't know -- I don't know the arrangement, 19:47:28</p> <p>3 but they spoke on behalf of Mallinckrodt for 19:47:30</p> <p>4 Mallinckrodt products. But I don't want to 19:47:33</p> <p>5 reach too far into the brands because -- 19:47:34</p> <p>6 okay. 19:47:37</p> <p>7 Q. Okay. As long as I understand 19:47:37</p> <p>8 your answer. 19:47:40</p> <p>9 A. Yeah. 19:47:41</p> <p>10 Q. Okay. And so on -- do you know 19:47:41</p> <p>11 on -- if -- when you looked at those top 19:47:44</p> <p>12 prescriber lists, did you review those at all 19:47:47</p> <p>13 from a suspicious order monitoring 19:47:51</p> <p>14 perspective? 19:47:53</p> <p>15 A. Yes. 19:47:54</p> <p>16 Q. Okay. And what did you do for 19:47:56</p> <p>17 that? 19:47:58</p> <p>18 A. So that is when, in the 19:47:58</p> <p>19 circumstance we spoke about before, if we 19:48:01</p> <p>20 were reviewing a downstream registrant and 19:48:04</p> <p>21 their due diligence with a particular 19:48:10</p> <p>22 pharmacy, if the distributor's file contained 19:48:12</p> <p>23 information about the top prescribers at 19:48:18</p> <p>24 those pharmacies, we would vet that against 19:48:19</p> <p>25 the list of the top prescribers per IMS. 19:48:22</p>	<p style="text-align: right;">Page 529</p> <p>1 A. When we used that list and the 19:49:12</p> <p>2 review with our distributors of their 19:49:18</p> <p>3 downstream registrants, again, if they 19:49:20</p> <p>4 provided us the names of the top prescribers 19:49:22</p> <p>5 at the pharmacy, and if that coincided with 19:49:26</p> <p>6 the top prescriber list we had within the 19:49:29</p> <p>7 country, we would have a detailed 19:49:32</p> <p>8 conversation with the distributor about the 19:49:34</p> <p>9 fact that that prescriber appeared on the 19:49:37</p> <p>10 list. 19:49:40</p> <p>11 Q. So that they were a top 19:49:40</p> <p>12 prescriber? 19:49:43</p> <p>13 A. Yes. 19:49:43</p> <p>14 Q. Okay. Okay. And so do you 19:49:44</p> <p>15 know if anyone from Mallinckrodt sales team 19:49:47</p> <p>16 was supposed to report signs of diversion to 19:49:52</p> <p>17 you? 19:49:58</p> <p>18 A. We spoke before about the NAMs, 19:49:58</p> <p>19 the narcotic -- national account managers. 19:50:00</p> <p>20 Q. Yes, ma'am. 19:50:02</p> <p>21 A. We asked them to be our 19:50:03</p> <p>22 observers, and if they saw anything at any of 19:50:05</p> <p>23 our customers that may appear to be a red 19:50:10</p> <p>24 flag, that they would report to the company. 19:50:11</p> <p>25 Q. Okay. And was that process the 19:50:13</p>

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1 same for the sales team on the branded side? 19:50:15
2 A. Not to my knowledge. 19:50:18
3 Q. Okay. Do you know if there was 19:50:21
4 any sort of suspicious order monitoring 19:50:23
5 training for the sales team on the branded 19:50:25
6 side? 19:50:27
7 A. I'm not certain. 19:50:27
8 Q. Okay. Do you know if you had a 19:50:28
9 counterpart, a suspicious order person, on 19:50:30
10 the branded side? 19:50:35
11 A. Did not. 19:50:36
12 Q. Okay. 19:50:37
13 THE WITNESS: I have a -- I'm 19:50:40
14 looking at the questioner's mouth a 19:50:42
15 lot, and this thing's in my way. Can 19:50:46
16 we scoot it or something? I'm sorry. 19:50:49
17 It's just helping me understand the 19:50:51
18 question. 19:50:53
19 MS. HERZFELD: That was very 19:50:54
20 thoughtful. Thank you. 19:50:58
21 THE WITNESS: Okay. 19:50:59
22 QUESTIONS BY MS. HERZFELD: 19:50:59
23 Q. Did Mallinckrodt have a program 19:51:16
24 or procedure in place to connect problem 19:51:18
25 prescribers and problem pharmacies? 19:51:20

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1 MR. O'CONNOR: Objection to 19:51:22
2 form. 19:51:23
3 THE WITNESS: Only to the 19:51:23
4 extent I previously described. If we 19:51:28
5 were talking to a distributor about 19:51:30
6 their downstream sales, sales to a 19:51:33
7 downstream registrant, and if their 19:51:34
8 due diligence, the distributor's due 19:51:36
9 diligence, files contained a list of 19:51:38
10 top prescribers, we would reference 19:51:39
11 that against our listing of top 19:51:40
12 prescribers within the country. 19:51:43
13 (Mallinckrodt-Harper Exhibit 41 19:52:32
14 marked for identification.) 19:52:34
15 QUESTIONS BY MS. HERZFELD: 19:52:34
16 Q. Okay. I'm going to mark this 19:52:34
17 next one as Exhibit 41. And this is 19:52:35
18 MNK-T1_0007704503. I'm sorry, it's stapled 19:52:39
19 on the bottom. 19:52:47
20 Take a minute to take a look at 19:53:27
21 this list. I'll represent to you that the 19:53:31
22 path it says is -- the file name is DIRJ and 19:53:33
23 pill mill physicians list, 2012, something. 19:53:36
24 It looks like the date it was last modified 19:53:49
25 was 1/16/2012. 19:53:52

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1 Have you seen this list before? 19:53:54
2 A. No. 19:53:55
3 Q. Okay. Do you know of any list 19:53:56
4 that was kept of pill mill physicians? 19:53:59
5 A. No. 19:54:04
6 Q. Okay. Do you know what DIRJ 19:54:05
7 stands for? 19:54:08
8 A. No. 19:54:08
9 Q. Okay. Do you have any idea who 19:54:08
10 I might ask about this document? 19:54:28
11 A. Perhaps someone on the branded 19:54:30
12 side. 19:54:32
13 Q. Okay. You suspect this has 19:54:33
14 something to do with branded, perhaps? 19:54:34
15 A. I suspect that, yes. 19:54:36
16 Q. Okay. Very good then. 19:54:37
17 A. Okay. 19:54:39
18 Q. Set it aside. 19:54:39
19 Oh, you know what? Actually if 19:54:48
20 you'll take it back for one second, it looks 19:54:49
21 like they stapled it all together again. I 19:54:51
22 don't think we have to put it as a separate 19:54:53
23 exhibit. 19:54:54
24 A. So are we still on 41? Is that 19:54:54
25 correct? 19:54:56

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1 Q. We are. 19:54:57
2 If you'll look at the very last 19:54:58
3 page for me, if you flip it over one, I'll 19:54:59
4 represent to you that this list here is the 19:55:03
5 same list but sorted by Tennessee. It's got 19:55:04
6 the same Bates number. 19:55:07
7 Do any -- looking at that, do 19:55:09
8 any of those names ring a bell to you for any 19:55:13
9 suspected pill mill operations in Tennessee? 19:55:18
10 A. No. 19:55:20
11 Q. Okay. That was my last 19:55:22
12 question. Thank you, ma'am. 19:55:22
13 (Mallinckrodt-Harper Exhibit 42 19:55:28
14 marked for identification.) 19:55:30
15 QUESTIONS BY MS. HERZFELD: 19:55:30
16 Q. Okay. Mark this next one as 19:55:30
17 Exhibit 42. It is MNK-T1_00005947296. 19:55:41
18 Okay. The file name is "IMS 19:56:02
19 high oxy 30 prescribers in January 2013." I 19:56:06
20 will represent to you that we have modified 19:56:11
21 this list to sort it just by Tennessee. We 19:56:12
22 haven't changed the contents of it at all. 19:56:17
23 Do you recognize this list, 19:56:20
24 ma'am? 19:56:21
25 A. No. 19:56:21

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<p>1 Q. Is this the IMS data you were 19:56:24</p> <p>2 talking about earlier, perhaps, looking for 19:56:26</p> <p>3 physicians? 19:56:29</p> <p>4 MR. O'CONNOR: Objection to 19:56:33</p> <p>5 form. 19:56:33</p> <p>6 THE WITNESS: It states IMS 19:56:33</p> <p>7 data, yes, so, yes. 19:56:34</p> <p>8 QUESTIONS BY MS. HERZFELD: 19:56:37</p> <p>9 Q. Okay. Have you seen a chart 19:56:37</p> <p>10 like this that you've consulted before? 19:56:39</p> <p>11 A. Perhaps. 19:56:41</p> <p>12 Q. Okay. Do you know if you did, 19:56:47</p> <p>13 if it would have been on the branded side or 19:56:49</p> <p>14 the generic side? 19:56:51</p> <p>15 MR. O'CONNOR: Objection to 19:56:52</p> <p>16 form. 19:56:53</p> <p>17 THE WITNESS: This would have 19:56:53</p> <p>18 been the list of -- potentially the 19:56:56</p> <p>19 list of high prescribers that we were 19:57:01</p> <p>20 cross-referencing. However, I don't 19:57:04</p> <p>21 recall that the list was this large or 19:57:07</p> <p>22 this long. 19:57:09</p> <p>23 QUESTIONS BY MS. HERZFELD: 19:57:09</p> <p>24 Q. Okay. So -- okay. Very good. 19:57:10</p> <p>25 Moving along. 19:57:17</p>	<p>1 "Prescriber list." The date last modified is 19:59:23</p> <p>2 2/1/2016 on the network share. 19:59:27</p> <p>3 Have you seen this list before? 19:59:31</p> <p>4 A. No. 19:59:32</p> <p>5 Q. Do you have any idea what it 19:59:33</p> <p>6 is? 19:59:34</p> <p>7 A. No. 19:59:34</p> <p>8 Q. Okay. Do you know if it has to 19:59:35</p> <p>9 do with suspicious order monitoring? 19:59:39</p> <p>10 A. No. 19:59:43</p> <p>11 Q. Okay. I'm going to note here 19:59:43</p> <p>12 on the page -- let's start with page 3, all 20:00:01</p> <p>13 the way at the back. 20:00:05</p> <p>14 The very top it says, "Alan 20:00:07</p> <p>15 Pecorella," and the comments are "arrested on 20:00:11</p> <p>16 8/23/13 on charge of possession of a 20:00:13</p> <p>17 Schedule II with intent to distribute. 20:00:16</p> <p>18 State, Tennessee. On target list, Q2013. 20:00:21</p> <p>19 Specialty physician assistant." 20:00:25</p> <p>20 Do you see where that's at? 20:00:27</p> <p>21 A. Yes. 20:00:28</p> <p>22 Q. Okay. And if you keep going 20:00:31</p> <p>23 through a bunch of these, it has various 20:00:33</p> <p>24 criminal descriptions here. 20:00:37</p> <p>25 You didn't create this? 20:00:42</p>
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<p>1 (Mallinckrodt-Harper Exhibit 43 19:57:18</p> <p>2 marked for identification.) 19:57:19</p> <p>3 QUESTIONS BY MS. HERZFELD: 19:57:19</p> <p>4 Q. Next one is Exhibit 43, 19:57:22</p> <p>5 MNK-T1_0007704471. And the title on this is 19:57:29</p> <p>6 "IMS prescribers through January 2013," and 19:57:47</p> <p>7 we have modified it just to show Tennessee. 19:57:51</p> <p>8 Have you seen a chart like this 19:57:55</p> <p>9 before, ma'am? 19:58:20</p> <p>10 A. A similar chart with the high 19:58:21</p> <p>11 prescribers throughout the country is all I 19:58:27</p> <p>12 recall seeing. 19:58:31</p> <p>13 Q. Okay. Okay. And if 19:58:32</p> <p>14 something's in the network share drive, does 19:58:39</p> <p>15 that mean it's open to everybody within the 19:58:42</p> <p>16 suspicious order monitoring team to view? 19:58:44</p> <p>17 A. Yes. 19:58:46</p> <p>18 Q. Okay. So you would have had 19:58:48</p> <p>19 access to anything on the share drive? 19:58:49</p> <p>20 A. Yes. 19:58:52</p> <p>21 (Mallinckrodt-Harper Exhibit 44 19:58:57</p> <p>22 marked for identification.) 19:58:57</p> <p>23 QUESTIONS BY MS. HERZFELD: 19:58:57</p> <p>24 Q. Okay. Exhibit 44, 19:58:57</p> <p>25 MNK-T1_0005947297. The file name on this is 19:59:07</p>	<p>1 A. No. 20:00:42</p> <p>2 Q. Did you have someone on your 20:00:43</p> <p>3 team create it? 20:00:44</p> <p>4 A. No. 20:00:45</p> <p>5 Q. Okay. You can set that aside. 20:00:47</p> <p>6 (Mallinckrodt-Harper Exhibit 45 20:01:11</p> <p>7 marked for identification.) 20:01:12</p> <p>8 QUESTIONS BY MS. HERZFELD: 20:01:12</p> <p>9 Q. Okay. Just a couple more. 20:01:13</p> <p>10 Okay. I'm going to hand you what we've 20:01:22</p> <p>11 marked as Plaintiff's Exhibit 45, 20:01:24</p> <p>12 MNK_TNSTA02527616. And take a look at that 20:01:35</p> <p>13 for me, please. 20:01:38</p> <p>14 I will submit to you that we 20:01:44</p> <p>15 took the information provided to us and 20:01:45</p> <p>16 sorted by state, so it's Tennessee only. 20:01:47</p> <p>17 Okay. And the title of this 20:02:02</p> <p>18 document is "oxy 15," and then we'll do 30, 20:02:04</p> <p>19 "sold via by month January through 20:02:08</p> <p>20 December 2011." Run -- the run, I am 20:02:11</p> <p>21 guessing, is report run, 2/15/2012. 20:02:13</p> <p>22 Do you see that? 20:02:16</p> <p>23 A. Yes. 20:02:17</p> <p>24 Q. Okay. So going through this, 20:02:19</p> <p>25 I'm not going to ask you 800 million 20:02:21</p>

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1 questions, but we've sorted it by Tennessee. 20:02:25
2 So if you will go with me to the very last 20:02:29
3 page. 20:02:42
4 A. Page 17? 20:02:42
5 Q. Page 17, yes, ma'am. 20:02:43
6 A. All right. 20:02:43
7 Q. All the way down to the very 20:02:45
8 bottom line that's open, sorting it by state 20:02:46
9 and then totaling the totals for 12 months, 20:02:49
10 can you please read that number in the 20:02:52
11 corner? 20:02:54
12 A. 4,071,300. 20:02:54
13 Q. Okay. And do you know if those 20:03:00
14 are sales of pills or bottles? 20:03:05
15 A. These appear to be chargeback 20:03:12
16 reports -- 20:03:19
17 Q. Yes, ma'am. 20:03:19
18 A. -- and it would have been 20:03:19
19 dosage units. 20:03:20
20 Q. Dosage units? 20:03:21
21 A. Yes. 20:03:22
22 Q. Okay. And what is a dosage 20:03:23
23 units? 20:03:24
24 A. A pill. 20:03:24
25 Q. Okay. 20:03:24

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1 A. Or a tablet or a capsule, yes. 20:03:26
2 Q. Okay. So when we take the 20:03:29
3 total number here, 4,071,300, that would be 20:03:30
4 pills of oxy 15 shipped to Tennessee, January 20:03:36
5 through December 2011; is that right? 20:03:41
6 A. So the front of the chart says 20:03:43
7 "oxy 15s and 30s." 20:03:51
8 Q. Yes, ma'am. 20:03:53
9 A. And I just don't see -- it says 20:03:53
10 it's on separate tabs, and I don't see -- 20:03:54
11 Q. Yeah. So this one is the sheet 20:03:54
12 for oxy 15, and I'm going to show you the 20:03:56
13 next one for oxy 30. 20:03:58
14 A. All right. 20:03:59
15 Q. Okay? 20:03:59
16 A. Got it. 20:04:00
17 Q. Okay. So I'm going to go back 20:04:00
18 and ask my question, just to make sure I 20:04:02
19 round that out. 20:04:04
20 So the total here, 4,071,300, 20:04:04
21 that would be the number of pills of oxy 15 20:04:08
22 shipped to Tennessee, January through 20:04:12
23 December of 2011, according to this 20:04:16
24 chargeback data; is that correct? 20:04:17
25 A. Yes. 20:04:18

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1 Q. Okay. Thank you. Okay. 20:04:19
2 Moving along. 20:04:22
3 (Mallinckrodt-Harper Exhibit 46 20:04:23
4 marked for identification.) 20:04:23
5 QUESTIONS BY MS. HERZFELD: 20:04:23
6 Q. Okay. It's a different tab of 20:04:28
7 the same Bates number, MNK_TNSTA02527616. 20:04:29
8 Okay. Same chart but for -- the tab for 20:04:43
9 oxy 30. We've modified this just to 20:04:48
10 Tennessee. 20:04:50
11 And if you'll flip with me to 20:04:51
12 the very last page, if you could read the 20:04:55
13 total for me there, ma'am. 20:05:00
14 A. 12,482,100. 20:05:02
15 Q. Okay. So same question on -- 20:05:16
16 for this chargeback sheet for -- I want to 20:05:20
17 make sure I understand it. 20:05:28
18 So that's 12,482,100 pills of 20:05:29
19 oxy 30 that were sent to Tennessee, January 20:05:34
20 through December 2011, according to the 20:05:38
21 chargeback data; is that correct, ma'am? 20:05:41
22 A. Yes. 20:05:42
23 Q. Okay. Thank you very much. 20:05:43
24 You can set that aside. 20:05:45
25 Okay. So if you add those two 20:05:52

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1 numbers -- I'll submit that the total, so you 20:05:54
2 don't have to do the math, is 16,553,400 20:05:56
3 Mallinckrodt oxy 15 and 30-milligram pills 20:06:00
4 that ended up in Tennessee in one year. 20:06:02
5 Does that sound correct? 20:06:08
6 MR. O'CONNOR: Objection to 20:06:09
7 form. 20:06:09
8 THE WITNESS: Yes, based upon 20:06:09
9 these reports you've shown me, yes. 20:06:10
10 QUESTIONS BY MS. HERZFELD: 20:06:12
11 Q. Okay. And oxy 15 and oxy 30 20:06:12
12 are not the only oxycodone products that 20:06:16
13 Mallinckrodt manufactures; is that right? 20:06:18
14 A. Yes. 20:06:20
15 Q. Okay. What other products are 20:06:21
16 there? 20:06:22
17 A. There's oxycodone 20:06:23
18 acetaminophen -- 20:06:25
19 Q. Okay. 20:06:26
20 A. -- tablets in various 20:06:26
21 strengths, but I don't know the list of 20:06:30
22 strengths. 20:06:31
23 Q. Okay. And other than the 20:06:32
24 oxycodone acetaminophen and the two branded 20:06:35
25 we've discussed, Exalgo and Xartemis, do you 20:06:37

<p style="text-align: right;">Page 542</p> <p>1 know any other opioid products that are 20:06:41</p> <p>2 manufactured by Mallinckrodt? 20:06:42</p> <p>3 A. I can't be certain. Some of 20:06:44</p> <p>4 the drug substances we distribute in an oral 20:06:47</p> <p>5 formulation -- 20:06:51</p> <p>6 Q. Okay. 20:06:52</p> <p>7 A. -- but I don't know if 20:06:52</p> <p>8 oxycodone is one of them. 20:06:52</p> <p>9 Q. Okay. But so far as you know, 20:06:54</p> <p>10 for oxycodone we've talked about what we 20:06:57</p> <p>11 have? 20:06:59</p> <p>12 A. Yes. 20:06:59</p> <p>13 Q. Okay. So for the oxycodone 20:06:59</p> <p>14 with acetaminophen, do you know if 20:07:01</p> <p>15 spreadsheets like that, like we just looked 20:07:02</p> <p>16 at, if those exist for the oxycodone with 20:07:04</p> <p>17 acetaminophen? 20:07:07</p> <p>18 A. So the chargeback data exists 20:07:08</p> <p>19 for all products, but the ones we focus on 20:07:10</p> <p>20 are the oxy 15s, the oxy 30s and the hydro 20:07:15</p> <p>21 10s. 20:07:20</p> <p>22 Q. Okay. So there wouldn't have 20:07:21</p> <p>23 been a chargeback report necessarily 20:07:23</p> <p>24 regularly run for oxycodone acetaminophen? 20:07:25</p> <p>25 A. Correct. 20:07:27</p>	<p style="text-align: right;">Page 544</p> <p>1 that in various strengths. 20:08:36</p> <p>2 Q. Uh-huh. 20:08:38</p> <p>3 A. Some of the products in our 20:08:40</p> <p>4 line have 5 milligrams of hydrocodone, some 20:08:42</p> <p>5 have 7 and a half milligrams of hydrocodone, 20:08:46</p> <p>6 and in this case it's referencing 20:08:49</p> <p>7 10 milligrams of hydrocodone -- 20:08:52</p> <p>8 Q. Okay. 20:08:53</p> <p>9 A. -- per pill mixed -- or with 20:08:53</p> <p>10 acetaminophen contained in the pill as well. 20:08:58</p> <p>11 Q. Okay. And when it says, "W 20:09:00</p> <p>12 DEA," is that with DEA? 20:09:03</p> <p>13 Do you know what that means? 20:09:06</p> <p>14 A. Yes, that's correct. 20:09:06</p> <p>15 Q. What does that mean? 20:09:07</p> <p>16 A. With DEA registration. 20:09:07</p> <p>17 Q. Oh, with DEA registration. 20:09:08</p> <p>18 Okay. 20:09:10</p> <p>19 And is the reason that the 20:09:11</p> <p>20 hydro APAP 10 S was monitored with reports 20:09:13</p> <p>21 like this via chargeback data because it was 20:09:20</p> <p>22 susceptible to diversion? 20:09:23</p> <p>23 MR. O'CONNOR: Objection. 20:09:25</p> <p>24 Form. 20:09:26</p> <p>25 THE WITNESS: We were told that 20:09:26</p>
<p style="text-align: right;">Page 543</p> <p>1 Q. Okay. And you mentioned the 20:07:27</p> <p>2 hydrocodone -- I say hydrocodone; you say 20:07:32</p> <p>3 hydrocodone. 20:07:34</p> <p>4 A. That's all right. 20:07:35</p> <p>5 Q. I apologize for that. 20:07:35</p> <p>6 You mentioned the hydrocodone 20:07:37</p> <p>7 10-milligram, you ran chargeback datas for 20:07:39</p> <p>8 those two; is that correct? 20:07:41</p> <p>9 A. Yes. 20:07:45</p> <p>10 (Mallinckrodt-Harper Exhibit 47 20:07:46</p> <p>11 marked for identification.) 20:07:47</p> <p>12 QUESTIONS BY MS. HERZFELD: 20:07:47</p> <p>13 Q. Okay. I marked this one as 20:07:53</p> <p>14 Exhibit 47. Okay. And this is 20:07:54</p> <p>15 MNK_TNSTA02527625. 20:08:06</p> <p>16 If you look at the file name 20:08:13</p> <p>17 here, it says "Hydro APAP 10 shipped to and 20:08:15</p> <p>18 sold via W DEA by month, January 2012 through 20:08:20</p> <p>19 December 2012, all APAP." 20:08:27</p> <p>20 Do you know what any of that 20:08:28</p> <p>21 means? 20:08:30</p> <p>22 A. Yes. 20:08:30</p> <p>23 Q. Could you explain it to me, 20:08:31</p> <p>24 please? 20:08:32</p> <p>25 A. So hydrocodone APAP, we sell 20:08:32</p>	<p style="text-align: right;">Page 545</p> <p>1 it was a drug of concern based upon 20:09:27</p> <p>2 DEA information, yes. 20:09:29</p> <p>3 QUESTIONS BY MS. HERZFELD: 20:09:30</p> <p>4 Q. Okay. Thank you. 20:09:31</p> <p>5 Okay. So looking at this 20:09:33</p> <p>6 report, I want to make sure that I understand 20:09:35</p> <p>7 this correctly. And you've already answered 20:09:39</p> <p>8 a lot of my questions, so that's great. 20:09:41</p> <p>9 Okay. If you'll go with the 20:09:43</p> <p>10 total to this one on the very last page, that 20:09:45</p> <p>11 total there reads -- is that -- could you 20:09:50</p> <p>12 read it for me, please? 20:09:53</p> <p>13 A. 78,184,600. 20:09:54</p> <p>14 Q. Okay. And so that would be 20:10:00</p> <p>15 10-milligram hydrocodone -- hydrocodone APAP 20:10:03</p> <p>16 pills sold in Tennessee from January 2012 to 20:10:06</p> <p>17 December 2012; is that correct? That's what 20:10:11</p> <p>18 this shows? 20:10:15</p> <p>19 A. The date at the top says '13. 20:10:16</p> <p>20 Year 2013. 20:10:21</p> <p>21 Q. Well, I think that's the date, 20:10:21</p> <p>22 not -- oh, where do you see? 20:10:22</p> <p>23 A. Here. 20:10:24</p> <p>24 Q. Oh, it sure does. Maybe it's 20:10:27</p> <p>25 mislabeled. 20:10:29</p>

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<p>1 Okay. So 2013. Make sure I've 20:10:30</p> <p>2 got the right chart. 20:10:33</p> <p>3 Well, it sure does say 2013. 20:10:46</p> <p>4 Okay. So I'm going to modify my question. 20:10:49</p> <p>5 So that total there -- okay. 20:10:50</p> <p>6 So that total there, 78,184,600, that is 20:10:59</p> <p>7 hydro APAP pills sold in Tennessee during the 20:11:06</p> <p>8 calendar year 2013. Is that correct, 20:11:10</p> <p>9 according to this chart? 20:11:11</p> <p>10 A. Those with 10 milligrams of 20:11:12</p> <p>11 hydrocodone, yes. 20:11:14</p> <p>12 Q. Okay. Thank you. 20:11:15</p> <p>13 Do you know why that number is 20:11:21</p> <p>14 so large? 20:11:25</p> <p>15 A. I don't have enough information 20:11:26</p> <p>16 to determine whether this is a large number. 20:11:33</p> <p>17 Q. Okay. Do you know how -- what 20:11:37</p> <p>18 the average was of 10-milligram hydrocodone 20:11:40</p> <p>19 pills being shipped to a state? 20:11:42</p> <p>20 A. No. 20:11:44</p> <p>21 Q. Okay. Do you know anything 20:11:47</p> <p>22 about a Veterans Administration hospital in 20:11:48</p> <p>23 Tennessee getting shipments of hydrocodone? 20:11:52</p> <p>24 MR. O'CONNOR: Objection to 20:11:54</p> <p>25 form. 20:11:55</p>	<p>1 A. VA and other government 20:12:41</p> <p>2 entities. 20:12:44</p> <p>3 Q. Okay. And do you know what 20:12:45</p> <p>4 year she left? 20:12:50</p> <p>5 A. Within the past two years. 20:12:51</p> <p>6 Q. Okay. Do you know if someone 20:12:53</p> <p>7 has replaced her? 20:12:54</p> <p>8 A. Yes. 20:12:55</p> <p>9 Q. Do you know who it is? 20:12:56</p> <p>10 A. I -- there are several new 20:12:57</p> <p>11 national account managers. I barely know 20:13:00</p> <p>12 their names, and I don't know their 20:13:05</p> <p>13 territories. 20:13:06</p> <p>14 Q. Okay. Do you know what 867 20:13:07</p> <p>15 data is? 20:13:11</p> <p>16 A. I've heard the term, yes. 20:13:11</p> <p>17 Q. Okay. Do you know what it is? 20:13:13</p> <p>18 A. It has to do with chargebacks, 20:13:14</p> <p>19 but other than that, it's -- I don't know. 20:13:19</p> <p>20 (Mallinckrodt-Harper Exhibit 48 20:14:15</p> <p>21 marked for identification.) 20:14:16</p> <p>22 QUESTIONS BY MS. HERZFELD: 20:14:16</p> <p>23 Q. Okay. I'll show you what we'll 20:14:10</p> <p>24 mark as Plaintiff's Exhibit 48. 20:14:14</p> <p>25 Mallinckrodt -- sorry, it's 20:14:20</p>
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<p>1 THE WITNESS: Not specifically, 20:11:55</p> <p>2 no. 20:11:56</p> <p>3 QUESTIONS BY MS. HERZFELD: 20:11:56</p> <p>4 Q. Okay. Do you know if the VA 20:11:57</p> <p>5 has a warehouse in Tennessee for medication? 20:12:05</p> <p>6 A. I do not know. 20:12:07</p> <p>7 Q. Okay. Have you dealt with the 20:12:08</p> <p>8 VA, Veterans Administration, at all in 20:12:12</p> <p>9 supplying their medication? 20:12:15</p> <p>10 A. I know we supply the VA, but 20:12:16</p> <p>11 I've not had any conversations with the VA. 20:12:18</p> <p>12 Q. Okay. Was there a specific 20:12:21</p> <p>13 person at Mallinckrodt whose job it would 20:12:23</p> <p>14 have been to deal with the VA? 20:12:24</p> <p>15 A. Yes. 20:12:26</p> <p>16 Q. Who would that have been? 20:12:27</p> <p>17 A. So she's no longer with the 20:12:28</p> <p>18 company. 20:12:30</p> <p>19 Q. Okay. 20:12:31</p> <p>20 A. Her name is Trudy Nicholson. 20:12:32</p> <p>21 Q. Okay. And what was Trudy 20:12:34</p> <p>22 Nicholson's position? 20:12:36</p> <p>23 A. National account manager. 20:12:37</p> <p>24 Q. Okay. And do you know what her 20:12:38</p> <p>25 area was? 20:12:40</p>	<p>1 MNK-T1_0007717730. 20:14:23</p> <p>2 Take a look at this. My 20:14:31</p> <p>3 question here is actually pretty simple if 20:14:41</p> <p>4 you'll just take a look at it. 20:14:44</p> <p>5 A. All right. 20:14:45</p> <p>6 Q. Does this also appear to be a 20:14:47</p> <p>7 chart of hydro APAP 10s sold for the calendar 20:14:48</p> <p>8 year 2015 to the state of Tennessee? 20:14:51</p> <p>9 A. Yes. 20:14:53</p> <p>10 Q. Okay. That's my only question. 20:14:54</p> <p>11 Okay. And you could place any 20:14:55</p> <p>12 pharmacy on the chargeback data restrictions 20:15:27</p> <p>13 list; is that right? 20:15:29</p> <p>14 MR. O'CONNOR: Objection to 20:15:33</p> <p>15 form. 20:15:34</p> <p>16 THE WITNESS: Provided it was a 20:15:34</p> <p>17 pharmacy that purchased through a 20:15:37</p> <p>18 distributor who applied for a 20:15:39</p> <p>19 chargeback reimbursement, yes. Yes. 20:15:41</p> <p>20 QUESTIONS BY MS. HERZFELD: 20:15:43</p> <p>21 Q. Okay. And you didn't -- you 20:15:44</p> <p>22 weren't required to fill any orders that 20:15:45</p> <p>23 seemed suspicious? 20:15:49</p> <p>24 A. Correct. 20:15:49</p> <p>25 Q. Okay. And were you involved at 20:15:50</p>

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1 all in the review of the distributors top 40 20:15:56
2 pharmacies that began somewhere around 20:15:58
3 October of 2011? 20:16:00
4 MR. O'CONNOR: Objection to 20:16:02
5 form. 20:16:02
6 THE WITNESS: Yes. 20:16:02
7 QUESTIONS BY MS. HERZFELD: 20:16:03
8 Q. Okay. And that was -- 20:16:03
9 Mallinckrodt reviewed the top 20 pharmacies 20:16:05
10 in Florida and the top 20 pharmacies outside 20:16:07
11 of Florida; is that correct? 20:16:11
12 A. Yes. 20:16:12
13 Q. Okay. And some of those 20:16:13
14 pharmacies that were on the 20 list outside 20:16:16
15 of Florida were in Tennessee; is that right? 20:16:18
16 A. I don't -- I don't have the 20:16:20
17 list in front of me, but I don't dispute 20:16:24
18 that. 20:16:26
19 Q. Okay. And which distributors 20:16:27
20 did you review? 20:16:35
21 You were involved with the 20:16:36
22 Cardinal review? 20:16:37
23 A. Yes. 20:16:37
24 Q. Okay. And if I understand 20:16:40
25 things correctly, one of the things that was 20:16:43

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1 asked of the distributors was to have them 20:16:50
2 fill out a pharmacy information sheet; is 20:16:52
3 that correct? 20:16:55
4 A. Yes. Yes. 20:16:55
5 Q. Okay. And were you involved in 20:16:56
6 helping to develop those pharmacy information 20:16:58
7 sheets? 20:17:01
8 A. Yes. 20:17:01
9 Q. Okay. And who else was 20:17:03
10 involved in that? 20:17:05
11 A. It was a team effort by 20:17:05
12 suspicious order monitoring team members at 20:17:10
13 that time. 20:17:12
14 Q. Okay. Okay. I think we'll go 20:17:12
15 back in our questioning just a little bit 20:17:44
16 here. 20:17:48
17 (Mallinckrodt-Harper Exhibit 49 20:17:55
18 marked for identification.) 20:17:56
19 QUESTIONS BY MS. HERZFELD: 20:17:56
20 Q. Mark this one as Plaintiff's 20:17:56
21 Exhibit 49. This one is labeled 20:18:00
22 MNK-T1_0004592727. 20:18:15
23 Is this your handwriting, 20:18:17
24 ma'am? 20:18:23
25 A. Yes. 20:18:23

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1 Q. Okay. And you recognize it as 20:18:26
2 your handwriting? 20:18:27
3 A. Yes. 20:18:27
4 Q. Okay. Great. 20:18:28
5 And it looks like yet again we 20:18:29
6 have added another document to the back of 20:18:34
7 this, if you'll bear with me for just one 20:18:36
8 second. 20:18:39
9 A. Oh -- oh. 20:18:39
10 Q. Yeah, it looks like it got 20:18:44
11 copied on the second back, so we're going to 20:18:45
12 ignore those pharmacy information sheets for 20:18:48
13 a minute, okay? My apologies. 20:18:50
14 A. All right. 20:18:53
15 Q. Okay. So let's just look at 20:18:53
16 this document as it is. 20:18:55
17 A. Which page, please? 20:18:56
18 Q. The first page. 20:18:57
19 A. This first page? Okay. Yes. 20:18:57
20 Got it. 20:18:59
21 Q. Yes, the one that ends 2727. 20:18:59
22 A. Got it. 20:19:02
23 Q. Is this the Cardinal top 40 20:19:02
24 oxy 30 pharmacies as of March 2012? 20:19:04
25 MS. FIX MEYER: Objection. 20:19:09

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1 Form. Foundation. 20:19:10
2 MS. HERZFELD: I'm going to 20:19:12
3 object to your objection because 20:19:12
4 you're not a party in our case. 20:19:13
5 MS. FIX MEYER: Okay. 20:19:15
6 THE WITNESS: Yes. 20:19:16
7 QUESTIONS BY MS. HERZFELD: 20:19:19
8 Q. Okay? And do you see Tennessee 20:19:20
9 pharmacies on this list? 20:19:21
10 A. Yes. 20:19:22
11 Q. Okay. And which pharmacies do 20:19:23
12 you see that are located in Tennessee on this 20:19:26
13 list? 20:19:28
14 A. I see Riggs Drug. 20:19:28
15 Q. Yes, ma'am. 20:19:31
16 A. And, oh, Riggs Drug again. 20:19:32
17 Q. Yes, ma'am. 20:19:38
18 A. And Kinser drugstore. 20:19:39
19 Q. Okay. And do you know what 20:19:41
20 that shaded area, pharmacy 90-day review from 20:19:42
21 previous meeting, means? 20:19:46
22 A. Yes. 20:19:47
23 Q. What does it mean? 20:19:48
24 A. It means we had previously 20:19:49
25 spoken to the distributor about these 20:19:54

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1	pharmacies, and they were doing additional 20:19:57	1	this. This is the one that ends 59731. 20:21:40
2	review or performing due diligence or -- to 20:20:02	2	Do you see that list? 20:21:47
3	some extent, and that we were going to 20:20:06	3	A. 592731? 20:21:48
4	revisit these pharmacies on our next 20:20:08	4	Q. Yes, ma'am. 20:21:55
5	quarterly review. 20:20:10	5	A. Yes. 20:21:55
6	MS. FIX MEYER: Objection. 20:20:11	6	Q. Okay. And so this is Cardinal 20:21:56
7	Form. Foundation. 20:20:12	7	oxycodone 30 multi-distributor pharmacies as 20:21:58
8	MS. HERZFELD: Same objection. 20:20:13	8	of March 2012. 20:22:02
9	QUESTIONS BY MS. HERZFELD: 20:20:14	9	Did I read that correctly? 20:22:04
10	Q. Pharmacies to be reviewed in 20:20:14	10	A. Yes. 20:22:06
11	quarter 3 CY '12 is that bottom group. 20:20:16	11	Q. Okay. And is that your 20:22:08
12	What does that mean? 20:20:21	12	handwriting to the right? 20:22:09
13	MS. FIX MEYER: Objection. 20:20:24	13	A. Yes. 20:22:10
14	Form. Foundation. 20:20:25	14	Q. And what does that say? 20:22:11
15	MS. HERZFELD: Same objection. 20:20:25	15	A. It says, "Rock 3 CAH," which is 20:22:12
16	I'm just going to have a 20:20:26	16	the abbreviation for Cardinal Health, 20:22:20
17	standing objection to any objections 20:20:27	17	"terminated December 2, 2011." 20:22:23
18	from Cardinal's counsel. Cardinal has 20:20:29	18	Q. Okay. And then underneath 20:22:25
19	not cross-noticed us in this 20:20:31	19	that? 20:22:27
20	deposition, nor is Cardinal part of 20:20:34	20	A. "Bellco picked them up." 20:22:27
21	our case. So our objection is 20:20:36	21	Q. Okay. Do you know what any of 20:22:30
22	Cardinal doesn't have standing to 20:20:39	22	that means? 20:22:31
23	object. 20:20:40	23	A. No. 20:22:32
24	QUESTIONS BY MS. HERZFELD: 20:20:41	24	Q. Okay. And then looking at this 20:22:33
25	Q. You can go ahead. 20:20:41	25	list, it looks like there are one, two on 20:22:35
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1	A. So it means what it says. 20:20:42	1	this list that are in Tennessee. 20:22:40
2	These were the pharmacies that we would 20:20:45	2	Do you see that? 20:22:41
3	discuss with Cardinal at that particular next 20:20:48	3	A. Just a moment, please. 20:22:42
4	meeting. 20:20:52	4	Q. Yeah, sure. 20:22:44
5	Q. Okay. And what does your 20:20:53	5	A. Yes. 20:22:45
6	handwriting here say? 20:20:56	6	Q. Okay. And those are Riggs in 20:22:47
7	A. It says, "Riggs not related." 20:20:57	7	La Follette, Tennessee, and Riggs Drug in 20:22:50
8	Q. Okay. And what does that mean? 20:20:59	8	Powell, Tennessee; is that right? 20:22:53
9	A. I do not know. 20:21:01	9	A. Yes. 20:22:54
10	Q. Okay. And then what does your 20:21:04	10	Q. And so they've been identified 20:22:54
11	handwriting down below say? 20:21:05	11	as getting oxycodone 30 from multi -- 20:22:56
12	A. "Cardinal owns SPS, Specialty 20:21:07	12	multiple distributors; is that right? 20:22:59
13	Pharmacy Services." 20:21:12	13	A. Yes. 20:23:02
14	Q. Okay. And what does that mean? 20:21:12	14	Q. Okay. And so looking at the 20:23:02
15	A. I don't know. 20:21:14	15	Riggs Drug, the first one in La Follette, 20:23:04
16	Q. Okay. Do you know what 20:21:14	16	according to this chart it says they were 20:23:07
17	Specialty Pharmacy Services is? 20:21:17	17	receiving oxycodone 30 from Cardinal and 20:23:09
18	A. No. 20:21:18	18	Masters. 20:23:11
19	Q. Okay. And flip with me to the 20:21:19	19	MS. FIX MEYER: Objection. 20:23:13
20	next page. 20:21:27	20	Form. 20:23:13
21	Is that your handwriting on 20:21:28	21	QUESTIONS BY MS. HERZFELD: 20:23:13
22	this document as well? 20:21:29	22	Q. Do you see that? 20:23:14
23	A. Yes. 20:21:30	23	MS. HERZFELD: Standing 20:23:14
24	Q. Okay. Then we'll keep flipping 20:21:36	24	objection. 20:23:15
25	to the next one, the one that looks like 20:21:38	25	THE WITNESS: Yes. 20:23:16

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1 QUESTIONS BY MS. HERZFELD: 20:23:16

2 Q. And then Riggs Drug in Powell, 20:23:17

3 Tennessee, it says they were receiving 20:23:21

4 oxycodone 30 from Cardinal, Masters and 20:23:23

5 HD Smith Wholesale. 20:23:26

6 MS. FIX MEYER: Same objection. 20:23:28

7 MS. HERZFELD: Same objection. 20:23:29

8 QUESTIONS BY MS. HERZFELD: 20:23:31

9 Q. Am I reading that correctly? 20:23:31

10 A. Yes. 20:23:32

11 Q. Okay. And was this report run 20:23:32

12 every year? 20:23:40

13 A. I'm not certain of the 20:23:41

14 frequency. 20:23:42

15 Q. Okay. Okay. Then the next 20:23:43

16 one, unfortunately, is really supposed to be 20:23:48

17 another exhibit. 20:23:49

18 MS. HERZFELD: Should we just 20:23:52

19 mark it separate? Let's just mark it 20:23:53

20 separate. 20:23:56

21 (Mallinckrodt-Harper Exhibit 50 20:23:56

22 marked for identification.) 20:23:56

23 MS. HERZFELD: Keep that. 20:23:56

24 Okay, you can put that one to the 20:23:56

25 side. Then what we'll do is make this 20:24:20

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1 the next exhibit. Okay? 20:24:22

2 Okay. So the next exhibit is 20:24:23

3 50. Mark this one as Exhibit 50. 20:24:25

4 MR. O'CONNOR: Just to be 20:24:32

5 clear, what's the Bates number on the 20:24:33

6 exhibit you're marking right now? 20:24:35

7 MS. HERZFELD: I'm going to 20:24:36

8 tell you. It's MNK-T1_0004592758 and 20:24:37

9 2756 and 2754 of this collective 20:24:49

10 exhibit. 20:24:53

11 MR. O'CONNOR: Just observe 20:24:53

12 that it appears to skip Bates numbers, 20:24:55

13 which suggests there might be pages 20:24:59

14 missing from this document. 20:24:59

15 MS. HERZFELD: It does, and I 20:25:00

16 don't know why that is, but we'll just 20:25:02

17 move along. 20:25:03

18 MR. O'CONNOR: Well, I would 20:25:04

19 just object to the extent this isn't a 20:25:04

20 document that's -- 20:25:06

21 MS. HERZFELD: Yeah, objection 20:25:07

22 noted. 20:25:08

23 MR. O'CONNOR: As it's 20:25:08

24 maintained. 20:25:11

25

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1 QUESTIONS BY MS. HERZFELD: 20:25:13

2 Q. Can you take a look at it for 20:25:13

3 me, please? 20:25:14

4 My first question on these is 20:25:20

5 pretty simple. Is this your handwriting? 20:25:21

6 A. Yes. 20:25:23

7 Q. Okay. And when -- do you 20:25:23

8 recognize these to be pharmacy information 20:25:28

9 sheets? 20:25:30

10 A. Yes. 20:25:30

11 Q. And these are all pharmacy 20:25:30

12 information sheets for Riggs pharmacy? 20:25:32

13 A. Yes. 20:25:34

14 Q. Okay. Riggs -- 20:25:37

15 A. Except the back -- 20:25:37

16 Q. Okay. 20:25:38

17 A. -- is some other chart. 20:25:39

18 Q. Yeah, ignore that. 20:25:40

19 A. Okay. 20:25:41

20 Q. Okay. So that would be Riggs 20:25:42

21 pharmacy in La Follette, Riggs pharmacy in 20:25:44

22 Jacksboro and Riggs pharmacy in Powell, 20:25:48

23 Tennessee; is that right? 20:25:51

24 A. Yes. 20:25:52

25 Q. Okay. And looking at this, 20:25:53

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1 you've got your handwritten notes. It goes 20:25:55

2 through, it looks like, portions of the 20:25:57

3 pharmacy information sheet. 20:25:59

4 Where did you get this 20:26:00

5 information? 20:26:02

6 A. In a conversation with a 20:26:06

7 wholesaler. It's not identified here. 20:26:09

8 Q. Okay. And you would agree with 20:26:12

9 me in those three pages of your handwritten 20:26:14

10 notes about the various Riggs that not every 20:26:16

11 section of your pharmacy information sheet is 20:26:21

12 filled out; is that correct? 20:26:24

13 A. Correct. 20:26:24

14 Q. Okay. And did Mallinckrodt, to 20:26:26

15 your knowledge, ever do any site visits at 20:26:29

16 any of these three Riggs pharmacies? 20:26:32

17 A. Not to my knowledge. 20:26:34

18 Q. Okay. And do you have any 20:26:34

19 recollection of any conversations about the 20:26:35

20 Riggs pharmacies at all? 20:26:37

21 A. This pharmacy information sheet 20:26:40

22 would have been the product of a discussion. 20:26:42

23 Q. Okay. Other than what's 20:26:45

24 written down in your handwritten notes on 20:26:47

25 these pharmacy information sheets, do you 20:26:50

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1 recall anything about those Riggs pharmacies? 20:26:52

2 A. No. 20:26:54

3 Q. Okay. 20:26:55

4 (Mallinckrodt-Harper Exhibit 51 20:27:22

5 marked for identification.) 20:27:23

6 QUESTIONS BY MS. HERZFELD: 20:27:23

7 Q. Okay. I'm going to hand you 20:27:23

8 what we'll mark as Exhibit 51, 20:27:26

9 MNK_TNSTA05350336. 20:27:36

10 Okay. Do you recognize this 20:27:43

11 document? 20:27:46

12 A. Yes. 20:27:46

13 Q. Okay. What does it appear to 20:27:47

14 be? 20:27:49

15 A. Pharmacy information sheet on 20:27:49

16 Riggs Drug again. 20:27:54

17 Q. Okay. And this is the Riggs 20:27:54

18 Drug in La Follette, Tennessee; is that 20:27:56

19 right? 20:27:59

20 A. Yes. 20:27:59

21 Q. Okay. And that's date 20:27:59

22 10/12/11? 20:28:02

23 A. Yes. 20:28:02

24 Q. Okay. And if you'll look down 20:28:03

25 here at the notes, it says, "Other notes: 20:28:04

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1 Explanation of 800 RX total per day. PIC 20:28:06

2 said increases due to physicians switching 20:28:11

3 from hydrocodone APAP mix due to liver 20:28:13

4 concerns." 20:28:17

5 Do you know where that 20:28:18

6 information was obtained? 20:28:19

7 A. I do not know. 20:28:20

8 Well, the information would 20:28:25

9 have been provided by Cardinal Health. 20:28:28

10 Q. Okay. And did you do anything 20:28:30

11 to verify the information provided to you by 20:28:32

12 Cardinal Health? 20:28:34

13 A. No. 20:28:35

14 Q. Okay. And did anyone in 20:28:37

15 Mallinckrodt, to your knowledge, do anything 20:28:39

16 to verify the information provided by 20:28:40

17 Cardinal Health? 20:28:42

18 A. No. 20:28:42

19 Q. Okay. Okay. So then the next 20:28:44

20 sentence says, "Near Riggs Medical Center and 20:28:46

21 St. Mary's Hospital." 20:28:49

22 Do you see where it says that? 20:28:52

23 A. Yes. 20:28:54

24 Q. Okay. You obtained that 20:28:54

25 information from Cardinal Health? 20:28:55

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1 A. Yes. 20:28:57

2 Q. Okay. Riggs Medical Center. 20:28:58

3 Do you know if a Riggs Medical Center exists? 20:29:03

4 A. I do not. 20:29:05

5 Q. Okay. Did you do anything to 20:29:06

6 verify whether a Riggs Medical Center exists? 20:29:08

7 A. No. 20:29:11

8 Q. Okay. What about St. Mary's 20:29:12

9 Hospital? It says, "near Riggs Medical 20:29:15

10 Center and St. Mary's Hospital." 20:29:18

11 Do you know how near this 20:29:19

12 pharmacy was to St. Mary's Hospital? 20:29:21

13 MR. O'CONNOR: Objection to 20:29:24

14 form. 20:29:24

15 THE WITNESS: No. 20:29:24

16 QUESTIONS BY MS. HERZFELD: 20:29:29

17 Q. Okay. Do you know where La 20:29:29

18 Follette, Tennessee, is? 20:29:32

19 A. No. 20:29:32

20 Q. Do you know where St. Mary's 20:29:33

21 Hospital is? 20:29:34

22 A. No. 20:29:34

23 Q. If St. Mary's Hospital is 20:29:35

24 45 miles away in Knoxville from La Follette, 20:29:43

25 is that information you would have wanted to 20:29:47

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1 have known? 20:29:49

2 MR. O'CONNOR: Objection to 20:29:49

3 form. 20:29:49

4 THE WITNESS: It's a piece of 20:29:54

5 information, but I don't know how many 20:29:55

6 other medical centers, how many other 20:29:57

7 pharmacies, were within that 45 miles. 20:29:59

8 So it would have been an additional 20:30:03

9 piece of information, but not 20:30:05

10 conclusive. 20:30:07

11 QUESTIONS BY MS. HERZFELD: 20:30:07

12 Q. Okay. But that's information 20:30:08

13 you would have liked to have had in 20:30:09

14 evaluating this pharmacy? 20:30:11

15 MR. O'CONNOR: Objection to 20:30:12

16 form. 20:30:13

17 THE WITNESS: We -- it wasn't 20:30:13

18 always provided to us, the proximity 20:30:17

19 of the pharmacy to a hospital, so we 20:30:19

20 took this information as Cardinal 20:30:22

21 represented it to us. 20:30:25

22 QUESTIONS BY MS. HERZFELD: 20:30:27

23 Q. When you hear "near Riggs 20:30:28

24 Medical Center and St. Mary's Hospital," 20:30:33

25 would you consider near to be 45 miles away? 20:30:35

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1	MR. O'CONNOR: Objection to	20:30:37	1	list," what does that mean?	20:32:13
2	form.	20:30:38	2	A. Well, I'd like to clarify the	20:32:15
3	THE WITNESS: I don't know La	20:30:38	3	previous information.	20:32:17
4	Follette, Tennessee, to know if -- in	20:30:41	4	Q. Yes, ma'am.	20:32:18
5	Missouri, some of the health care	20:30:44	5	A. I don't know who filled this	20:32:19
6	centers are hundreds of miles away	20:30:45	6	out.	20:32:19
7	from where a patient may live and the	20:30:48	7	Q. Okay.	20:32:19
8	pharmacy from which they may obtain	20:30:52	8	A. I don't know if it was us or	20:32:20
9	their prescriptions, so I don't have	20:30:54	9	Cardinal --	20:32:20
10	enough information to answer.	20:30:57	10	Q. Okay.	20:32:20
11	QUESTIONS BY MS. HERZFELD:	20:30:58	11	A. -- because Cardinal was a great	20:32:21
12	Q. Okay. But you didn't do	20:30:58	12	collaborative partner. And so as time went	20:32:23
13	anything to check that out, did you?	20:30:59	13	on, as opposed to us writing these things in	20:32:26
14	A. No.	20:31:00	14	hand, Cardinal would come prepared to	20:32:28
15	Q. Okay. And then it says,	20:31:02	15	conversations or meetings or tell -- or	20:32:30
16	"Another Riggs drugstore is located in	20:31:03	16	transmit these pharmacy information sheets to	20:32:32
17	Powell, Tennessee, with oxy 30 milligram	20:31:06	17	us.	20:32:35
18	year-to-date of approximately 170,000."	20:31:09	18	Q. Okay.	20:32:35
19	Do you see that?	20:31:13	19	A. So I don't know who typed this	20:32:36
20	A. Yes.	20:31:13	20	disposition.	20:32:42
21	Q. Okay. Did that concern you at	20:31:16	21	Q. Okay. Do you know if Riggs was	20:32:43
22	all, that there was another Riggs pharmacy so	20:31:18	22	ever put on a chargeback list?	20:32:44
23	close with that number?	20:31:21	23	A. I -- yes.	20:32:46
24	MR. O'CONNOR: Objection to	20:31:24	24	Q. Why don't we look at the list.	20:32:49
25	form.	20:31:25	25	A. All right.	20:32:51
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1	THE WITNESS: I don't see on	20:31:25	1	Q. I'll find it.	20:32:51
2	this pharmacy information sheet a	20:31:28	2	Would Cardinal have had the	20:32:53
3	disposition in terms of whether we	20:31:30	3	ability to tell Mallinckrodt what to put on	20:32:55
4	restricted chargebacks to the sale	20:31:35	4	or take off of a chargeback list?	20:32:57
5	of -- of pharmaceuticals to any of	20:31:39	5	MS. FIX MEYER: Objection.	20:32:59
6	these Riggs Drug's facilities.	20:31:40	6	Form.	20:33:00
7	I can tell you it was a topic	20:31:43	7	MR. O'CONNOR: Objection to	20:33:00
8	of conversation with Cardinal, but I	20:31:45	8	form.	20:33:01
9	don't know the disposition.	20:31:46	9	MS. HERZFELD: Same objection.	20:33:01
10	QUESTIONS BY MS. HERZFELD:	20:31:47	10	QUESTIONS BY MS. HERZFELD:	20:33:06
11	Q. Okay. If you look down at the	20:31:48	11	Q. Did Cardinal have that ability?	20:33:06
12	bottom there, it says, "Result, take off list	20:31:49	12	A. They had -- no, not the	20:33:08
13	and honor chargebacks. Requested site visit	20:31:51	13	ability.	20:33:13
14	with 90 days. Low CS percentage is	20:31:54	14	Q. Okay. Would they make	20:33:13
15	mitigating factor."	20:31:57	15	recommendations?	20:33:15
16	Do you see that?	20:31:58	16	A. Yes.	20:33:15
17	A. Yes.	20:31:59	17	Q. Okay. And would you follow the	20:33:17
18	Q. Okay. And so that would be the	20:31:59	18	recommendations?	20:33:19
19	result from the Mallinckrodt side; is that	20:32:02	19	A. Yes.	20:33:19
20	correct?	20:32:04	20	Q. Would you do any independent	20:33:20
21	MR. O'CONNOR: Objection to	20:32:04	21	research to verify their recommendations?	20:33:25
22	form.	20:32:05	22	A. I don't -- it would have been	20:33:27
23	THE WITNESS: Yes.	20:32:05	23	situational.	20:33:33
24	QUESTIONS BY MS. HERZFELD:	20:32:09	24	Q. Okay. I'm going to show you	20:33:35
25	Q. Okay. When it says "take off	20:32:09	25	Exhibit 36, which is the chargeback list, and	20:33:38

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1 please let me know if you see Riggs on there, 20:33:42	1 that's Max Pharmacy; is that right? 20:36:44
2 please. 20:33:44	2 A. Yes. 20:36:47
3 A. I do not. 20:33:44	3 Q. Do you know where that's 20:36:47
4 Q. Okay. So if Riggs was ever 20:33:47	4 located? 20:36:48
5 placed on a chargeback list on 20:33:49	5 A. No. 20:36:48
6 Mallinckrodt -- by Mallinckrodt, it should 20:33:51	6 Q. Okay. And then Kinser drug 20:36:49
7 appear on the chargeback list; is that 20:33:52	7 store. 20:36:54
8 correct? 20:33:54	8 Do you see that? 20:36:54
9 MR. O'CONNOR: Objection to 20:33:54	9 A. Yes. 20:36:55
10 form. 20:33:55	10 Q. Okay. And is Kinser drug store 20:36:55
11 THE WITNESS: Yes. 20:33:55	11 listed in Tennessee? 20:36:57
12 QUESTIONS BY MS. HERZFELD: 20:33:58	12 A. I know the name came up within 20:36:59
13 Q. Okay. Okay. You can set that 20:33:58	13 the course of this deposition. I'm getting 20:37:00
14 aside. 20:34:07	14 so muddled, I don't know. I'm sorry. 20:37:02
15 (Mallinckrodt-Harper Exhibit 52 20:34:57	15 Q. That's fine. Okay. And I 20:37:04
16 marked for identification.) 20:34:57	16 think those are my only questions on that 20:37:06
17 QUESTIONS BY MS. HERZFELD: 20:34:57	17 document. 20:37:07
18 Q. I'm going to show what we'll 20:34:58	18 A. Okay. 20:37:08
19 mark as Exhibit 51? 2? 20:35:00	19 Q. Let's put it aside. 20:37:08
20 MR. O'CONNOR: It's 52. 20:35:03	20 Okay. We'll just go through 20:38:39
21 MS. HERZFELD: 52? Thank you. 20:35:06	21 these next three pretty quickly. 20:38:42
22 QUESTIONS BY MS. HERZFELD: 20:35:06	22 (Mallinckrodt-Harper Exhibit 53 20:38:44
23 Q. This is MNK_TNSTA05353270. 20:35:14	23 marked for identification.) 20:38:44
24 Take a look at that for me, please, ma'am. 20:35:26	24 QUESTIONS BY MS. HERZFELD: 20:38:44
25 Do you recognize this as the 20:35:45	25 Q. Number 53, MNK_TNSTA00612651. 20:38:44
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1 summary report for the Cardinal Health 20:35:46	1 Do you recognize this document 20:39:05
2 suspicious order monitoring audit conducted 20:35:49	2 as a pharmacy information sheet? 20:39:15
3 March 5th through 6th in 2012 in Ohio? 20:35:51	3 A. Yes. 20:39:17
4 A. Yes. 20:35:53	4 Q. Do you know if it was filled 20:39:17
5 Q. Okay. Did you create this 20:35:54	5 out by Mallinckrodt or by Cardinal? 20:39:18
6 document? 20:35:55	6 A. I do not know. 20:39:21
7 A. I don't recall. 20:35:55	7 MS. FIX MEYER: Objection. 20:39:22
8 Q. Okay. Looking through it, it 20:35:58	8 MS. HERZFELD: Okay. Same 20:39:23
9 says on March 5th, a total of 19 pharmacies 20:36:02	9 standing objection. 20:39:25
10 located in Florida were reviewed. 20:36:04	10 QUESTIONS BY MS. HERZFELD: 20:39:25
11 If you look at the second page, 20:36:06	11 Q. Okay. And it talks about the 20:39:26
12 page ending in 53271, a total of 20 20:36:16	12 volume of oxycodone sales to this location; 20:39:28
13 pharmacies located in non-Florida states were 20:36:22	13 is that correct? 20:39:30
14 reviewed. Of the 20, 11 pharmacies have had 20:36:26	14 A. Yes. 20:39:30
15 controlled substance sales restricted by 20:36:28	15 Q. Okay. And then at the bottom 20:39:33
16 Cardinal. 20:36:28	16 it says, "Describe physical location and 20:39:34
17 Do you see where that is? 20:36:29	17 description of pharmacy. Standalone building 20:39:37
18 A. Yes. 20:36:30	18 on main two-lane road. Services rural 20:39:40
19 Q. Okay. And do you see the list 20:36:30	19 community. In residential town in Campbell 20:39:44
20 that says non-Florida, non-restricted? 20:36:36	20 County." 20:39:46
21 A. Yes. 20:36:41	21 Did I read that correctly? 20:39:46
22 Q. And what is the one at the 20:36:41	22 A. Yes. 20:39:47
23 bottom there? 20:36:42	23 Q. Okay. And did Mallinckrodt do 20:39:47
24 A. Riggs Drug. 20:36:42	24 anything to verify that information? 20:39:50
25 Q. Okay. And if you go up two, 20:36:43	25 A. No. 20:39:51

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1 (Mallinckrodt-Harper Exhibit 54 20:39:53
2 marked for identification.) 20:39:53
3 QUESTIONS BY MS. HERZFELD: 20:39:53
4 Q. Okay. Okay. I'm handing you 20:39:54
5 Exhibit 54, MNK_TNSTA00607869. 20:40:14
6 Do you recognize this as a 20:40:21
7 pharmacy information sheet dated 11/30/2012 20:40:23
8 for the Riggs Drug in La Follette, Tennessee? 20:40:29
9 A. Yes. 20:40:33
10 Q. Okay. And do you know if 20:40:33
11 someone from Mallinckrodt filled this out or 20:40:35
12 somebody from Cardinal filled it out? 20:40:39
13 MR. O'CONNOR: Objection to 20:40:41
14 form. 20:40:41
15 MS. FIX MEYER: Objection. 20:40:43
16 THE WITNESS: No. 20:40:43
17 QUESTIONS BY MS. HERZFELD: 20:40:43
18 Q. Okay. And could you please 20:40:43
19 read to me what it says and describe the 20:40:44
20 physical description and location of the 20:40:45
21 pharmacy? 20:40:46
22 A. "La Follette, Tennessee, is a 20:40:48
23 small town of 7,926 located northwest of 20:40:50
24 Knoxville. The pharmacy is located in a 20:40:55
25 spacious standalone building with a large 20:40:58

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1 parking area. It shares a small amount of 20:41:01
2 space with a medical clinic, which is in the 20:41:03
3 process of moving to a larger building. The 20:41:06
4 pharmacy is located on the primary business 20:41:10
5 street and the state highway through town." 20:41:13
6 Q. Okay. And down at the bottom, 20:41:16
7 the notes, could you read that for me, 20:41:18
8 please? 20:41:21
9 A. Yes. 20:41:21
10 "All Riggs 15/30s capped. Have 20:41:22
11 stopped prescribing for certain docs. Per 20:41:28
12 Cardinal Health" -- that's the abbreviation 20:41:37
13 for Cardinal Health -- "they believe 20:41:38
14 Jacksboro store has made progress. One store 20:41:42
15 fills 12,000 scripts per month, another fills 20:41:44
16 5,000." 20:41:48
17 Q. Okay. So the information 20:41:50
18 that's included in the physical location 20:41:51
19 about the size of La Follette, Tennessee, and 20:41:53
20 description of the building, that's 20:41:58
21 information that was known to Mallinckrodt; 20:41:59
22 is that correct? 20:42:02
23 MR. O'CONNOR: Objection to 20:42:02
24 form. 20:42:03
25 THE WITNESS: Yes. 20:42:03

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1 QUESTIONS BY MS. HERZFELD: 20:42:03
2 Q. Okay. And then when it says, 20:42:04
3 "notes, all Riggs have been capped," talking 20:42:06
4 about per Cardinal Health, they believe the 20:42:08
5 Jacksboro store has made progress, Cardinal 20:42:10
6 is being referred to as "they." 20:42:13
7 So do you believe that note was 20:42:14
8 made by somebody at Mallinckrodt? 20:42:16
9 MR. O'CONNOR: Objection to 20:42:18
10 form. 20:42:19
11 THE WITNESS: Yes. 20:42:19
12 QUESTIONS BY MS. HERZFELD: 20:42:19
13 Q. Okay. And so do you know 20:42:20
14 anything about Riggs 15 and 30s being capped? 20:42:23
15 A. It says it here, but I don't 20:42:27
16 recall. 20:42:29
17 Q. Okay. And what does it mean to 20:42:29
18 cap someone at 15 and 30s? 20:42:30
19 A. It means a limit was placed on 20:42:35
20 the amount of oxycodone 15s and 30s that a 20:42:38
21 particular pharmacy could receive from a 20:42:41
22 distributor. 20:42:45
23 Q. Okay. And why would -- why 20:42:45
24 would that happen? Why would a cap be put 20:42:47
25 on? 20:42:49

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1 A. So this is part of Cardinal's 20:42:49
2 program, and I can't answer the question. 20:42:53
3 Q. Okay. When it says, "They 20:42:55
4 believe the Jacksboro store has made 20:42:57
5 progress. One store fills 12,000 scripts per 20:43:00
6 month, another fills 5,000," does that mean 20:43:03
7 that the numbers went down? 20:43:06
8 MR. O'CONNOR: Objection to 20:43:07
9 form. 20:43:07
10 THE WITNESS: I don't know. 20:43:07
11 QUESTIONS BY MS. HERZFELD: 20:43:08
12 Q. Okay. Do you know if you had a 20:43:08
13 concern about diversion from these Riggs 20:43:11
14 pharmacies in Campbell County? 20:43:15
15 MR. O'CONNOR: Objection to 20:43:17
16 form. 20:43:18
17 THE WITNESS: So by virtue of 20:43:18
18 the fact we had a pharmacy information 20:43:20
19 sheet, it means we discussed these 20:43:22
20 pharmacies with Cardinal and any other 20:43:25
21 distributor that was selling to them. 20:43:27
22 So it was a point of discussion for 20:43:29
23 further review. 20:43:34
24 QUESTIONS BY MS. HERZFELD: 20:43:34
25 Q. Okay. So there was discussion 20:43:35

<p style="text-align: right;">Page 578</p> <p>1 about whether there was potential diversion 20:43:37</p> <p>2 at these Riggs pharmacies? 20:43:39</p> <p>3 A. Yes. 20:43:42</p> <p>4 Q. Okay. And at no time did 20:43:43</p> <p>5 Mallinckrodt do chargeback restrictions for 20:43:48</p> <p>6 Riggs pharmacies, according to that chart we 20:43:51</p> <p>7 saw; is that correct? 20:43:54</p> <p>8 MR. O'CONNOR: Objection to 20:43:54</p> <p>9 form. 20:43:55</p> <p>10 THE WITNESS: So, yes, and I 20:43:55</p> <p>11 misspoke when I said that we had. 20:43:57</p> <p>12 According to the chart, Riggs 20:44:00</p> <p>13 pharmacies were not restricted -- 20:44:02</p> <p>14 QUESTIONS BY MS. HERZFELD: 20:44:03</p> <p>15 Q. Okay. 20:44:03</p> <p>16 A. -- from chargeback processing. 20:44:04</p> <p>17 Q. Okay. And so that means, to 20:44:05</p> <p>18 your knowledge, Riggs pharmacies could 20:44:07</p> <p>19 continue to receive oxycodone 15 and 30s? 20:44:09</p> <p>20 A. Yes. 20:44:13</p> <p>21 Q. Okay. Thank you. 20:44:15</p> <p>22 (Mallinckrodt-Harper Exhibit 55 20:44:18</p> <p>23 marked for identification.) 20:44:18</p> <p>24 QUESTIONS BY MS. HERZFELD: 20:44:18</p> <p>25 Q. Okay. 55, marking Plaintiff's 20:44:42</p>	<p style="text-align: right;">Page 580</p> <p>1 pharmacies, but I don't see that there's -- 20:46:53</p> <p>2 oh, yes, I do see an identifier on the 20:46:56</p> <p>3 spreadsheet itself. Yes, Riggs pharmacies. 20:46:59</p> <p>4 Q. Okay. Great. 20:47:00</p> <p>5 In looking here, it's kind of 20:47:01</p> <p>6 hard to review it all. One, two -- if you 20:47:09</p> <p>7 look on page 3, down at the bottom, the 20:47:12</p> <p>8 orange line, it says, "Oxycodone 30-milligram 20:47:35</p> <p>9 tablets." 20:47:38</p> <p>10 Do you see where I'm at? 20:47:39</p> <p>11 A. Yes. 20:47:40</p> <p>12 Q. Okay. And it indicates that 20:47:41</p> <p>13 Cardinal Health shipped 292,600 oxycodone 20:47:44</p> <p>14 30-milligram tablets to Riggs Drug in La 20:47:52</p> <p>15 Follette, Tennessee, in the calendar year 20:47:56</p> <p>16 2012; is that correct? 20:48:00</p> <p>17 A. So the data began November 20:48:01</p> <p>18 of 2011. 20:48:08</p> <p>19 Q. Oh, you are correct. 20:48:08</p> <p>20 So from November 2011 to 20:48:10</p> <p>21 November 2012? 20:48:14</p> <p>22 A. Yes. 20:48:15</p> <p>23 Q. Okay. And then it says 20:48:17</p> <p>24 HD Smith shipped 30 milligrams of oxycodone 20:48:18</p> <p>25 to that same Riggs location, 1,200 tablets. 20:48:24</p>
<p style="text-align: right;">Page 579</p> <p>1 Exhibit 55 here. It's MNK_TNSTA00612647. 20:45:06</p> <p>2 Take a look at this for me, please. 20:45:15</p> <p>3 The file name for this document 20:45:44</p> <p>4 is "Riggs pharmacies all sales run 20:45:45</p> <p>5 11/30/2012"; is that correct? 20:45:49</p> <p>6 A. Yes. 20:45:50</p> <p>7 Q. Did you create this document? 20:45:51</p> <p>8 A. No. 20:45:52</p> <p>9 Q. Did you direct that it be 20:45:53</p> <p>10 created? 20:45:56</p> <p>11 A. I'm not certain. 20:45:58</p> <p>12 Q. Okay. Okay. If you'll look 20:46:00</p> <p>13 with me on page 3. 20:46:19</p> <p>14 A. I'm sorry. Oh, yes. 20:46:24</p> <p>15 Q. Do you see that? 20:46:25</p> <p>16 A. Yes. Yes. 20:46:26</p> <p>17 Q. Okay. Does this appear to be a 20:46:27</p> <p>18 report based on chargeback data to you, 20:46:28</p> <p>19 ma'am? 20:46:30</p> <p>20 A. Yes. 20:46:30</p> <p>21 Q. Okay. And it appears to be a 20:46:31</p> <p>22 report about the Riggs Drug stores in -- the 20:46:32</p> <p>23 Riggs Drug stores we were discussing; is that 20:46:39</p> <p>24 correct? Jacksboro, La Follette and Powell? 20:46:43</p> <p>25 A. So the cover says Riggs 20:46:48</p>	<p style="text-align: right;">Page 581</p> <p>1 Am I reading that correctly? 20:48:29</p> <p>2 A. Yes. 20:48:32</p> <p>3 Q. Okay. Okay. Staying on page 3 20:48:32</p> <p>4 with me there, the last blue line, it says 20:49:02</p> <p>5 oxycodone 15-milligram tablets here for the 20:49:07</p> <p>6 same Riggs store in La Follette, Tennessee. 20:49:08</p> <p>7 Do you see where I am now? 20:49:10</p> <p>8 A. Yes. 20:49:12</p> <p>9 Q. Okay. And it says that 20:49:12</p> <p>10 Cardinal Health shipped 84,000 tablets during 20:49:13</p> <p>11 that same time period; is that correct? 20:49:15</p> <p>12 A. Yes. 20:49:17</p> <p>13 Q. Okay. So if you add those two 20:49:20</p> <p>14 together, I submit to you that would be 20:49:27</p> <p>15 377,600 Mallinckrodt-made oxycodone 20:49:31</p> <p>16 15-milligram and 30-milligram tablets going 20:49:37</p> <p>17 to that one pharmacy in that period of 20:49:39</p> <p>18 November 2011 to November 2012. 20:49:43</p> <p>19 Does that sound correct? 20:49:46</p> <p>20 MR. O'CONNOR: Objection to 20:49:47</p> <p>21 form. 20:49:48</p> <p>22 THE WITNESS: Yes. 20:49:48</p> <p>23 QUESTIONS BY MS. HERZFELD: 20:49:48</p> <p>24 Q. Okay. And that's just to one 20:49:49</p> <p>25 pharmacy, not to what was sent to that 20:49:56</p>

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<p>1 county; is that right? 20:49:58</p> <p>2 MR. O'CONNOR: Object to form. 20:49:59</p> <p>3 THE WITNESS: Yes. 20:50:01</p> <p>4 QUESTIONS BY MS. HERZFELD: 20:50:01</p> <p>5 Q. Okay. Does that number seem 20:50:02</p> <p>6 too high to you? 20:50:05</p> <p>7 MR. O'CONNOR: Object to form. 20:50:06</p> <p>8 THE WITNESS: A number is one 20:50:07</p> <p>9 of the indicators we use. High? I 20:50:10</p> <p>10 don't have enough information to 20:50:16</p> <p>11 compare other states to this 20:50:19</p> <p>12 particular statistics or other 20:50:23</p> <p>13 pharmacies, so I can't answer. 20:50:25</p> <p>14 QUESTIONS BY MS. HERZFELD: 20:50:26</p> <p>15 Q. Okay. So you'd have to have 20:50:27</p> <p>16 that information in order to be able to make 20:50:28</p> <p>17 a determination as to whether the number was 20:50:30</p> <p>18 too high relatively? 20:50:32</p> <p>19 A. Well, "too high" is a relative 20:50:33</p> <p>20 term, again, so it would be a number that 20:50:37</p> <p>21 merited further review. 20:50:41</p> <p>22 Q. Okay. 20:50:43</p> <p>23 A. Potentially, yes. 20:50:43</p> <p>24 Q. And so the types of things that 20:50:44</p> <p>25 you would want to know in order to make that 20:50:45</p>	<p>1 form. 20:51:35</p> <p>2 THE WITNESS: So the factors 20:51:35</p> <p>3 listed on the pharmacy information 20:51:38</p> <p>4 sheet, oxycodone compared to other 20:51:40</p> <p>5 opioids being dispensed, percent 20:51:46</p> <p>6 oxycodone 15, 30, relative to other 20:51:50</p> <p>7 oxy products, and the other factors, 20:51:52</p> <p>8 including a physical and -- in a 20:51:56</p> <p>9 physical location and a description of 20:52:02</p> <p>10 the pharmacy. 20:52:04</p> <p>11 QUESTIONS BY MS. HERZFELD: 20:52:04</p> <p>12 Q. Okay. And what types of 20:52:04</p> <p>13 physical locations would cause you concern? 20:52:05</p> <p>14 MR. O'CONNOR: Objection to 20:52:09</p> <p>15 form. 20:52:11</p> <p>16 THE WITNESS: I don't -- I 20:52:11</p> <p>17 don't know offhand. 20:52:15</p> <p>18 QUESTIONS BY MS. HERZFELD: 20:52:15</p> <p>19 Q. Okay. Okay. So the things on 20:52:16</p> <p>20 the list is what you would consider, on the 20:52:21</p> <p>21 pharmacy information sheet checklist? 20:52:22</p> <p>22 A. Yes. 20:52:24</p> <p>23 Q. Okay. Is there anything 20:52:25</p> <p>24 outside of the information, the questions 20:52:26</p> <p>25 you've got contained in the pharmacy 20:52:29</p>
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<p>1 determination would be population? 20:50:47</p> <p>2 A. That could be -- 20:50:51</p> <p>3 MR. O'CONNOR: Form. 20:50:52</p> <p>4 THE WITNESS: -- one piece of 20:50:53</p> <p>5 information. 20:50:55</p> <p>6 QUESTIONS BY MS. HERZFELD: 20:50:55</p> <p>7 Q. Okay. And what about the 20:50:55</p> <p>8 percent of an aging population of the area? 20:50:58</p> <p>9 A. No. 20:51:02</p> <p>10 Q. That's not something you'd want 20:51:04</p> <p>11 to consider? 20:51:05</p> <p>12 A. Oh, I -- it wasn't a part of 20:51:05</p> <p>13 our program. 20:51:09</p> <p>14 Q. Okay. What about nearness to 20:51:10</p> <p>15 hospitals or other medical facilities; would 20:51:14</p> <p>16 you want to know that information? 20:51:16</p> <p>17 A. Not routinely. 20:51:18</p> <p>18 Q. Okay. 20:51:22</p> <p>19 A. No. 20:51:22</p> <p>20 Q. Okay. So what types of other 20:51:23</p> <p>21 information would you need besides just pure 20:51:25</p> <p>22 number in order to be able to make a 20:51:27</p> <p>23 determination if a pharmacy was -- was 20:51:30</p> <p>24 processing suspicious orders? 20:51:33</p> <p>25 MR. O'CONNOR: Objection to 20:51:34</p>	<p>1 information sheet checklist, that you would 20:52:30</p> <p>2 consider when determining whether a pharmacy 20:52:32</p> <p>3 may be engaging in diversion? 20:52:35</p> <p>4 A. So a Google report would prompt 20:52:38</p> <p>5 further review. Those are the factors that 20:52:44</p> <p>6 come to mind. 20:52:46</p> <p>7 Q. Okay. But a Google report, if 20:52:47</p> <p>8 it comes up, right, it's generally going to 20:52:49</p> <p>9 be when there's been a drug bust at a 20:52:52</p> <p>10 pharmacy after the fact; is that right? 20:52:54</p> <p>11 MR. O'CONNOR: Objection to 20:52:55</p> <p>12 form. 20:52:56</p> <p>13 THE WITNESS: Yes. Yes. 20:52:56</p> <p>14 QUESTIONS BY MS. HERZFELD: 20:53:00</p> <p>15 Q. Okay. Okay. If you'll take 20:53:01</p> <p>16 the same sheet with me, we're going to just 20:53:07</p> <p>17 spend another minute with it. And if you'll 20:53:10</p> <p>18 flip with me to the one that's page 4. 20:53:15</p> <p>19 If you'll go down to the part 20:53:22</p> <p>20 that's highlighted in orange. I guess that's 20:53:24</p> <p>21 orange. 20:53:27</p> <p>22 A. Oh, I'm sorry. I'm on the 20:53:28</p> <p>23 wrong page. 20:53:30</p> <p>24 Q. That's okay. Page 4. 20:53:30</p> <p>25 A. All right. 20:53:36</p>

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1	Q. At the top it should say Riggs 20:53:37	1	A. -- and added all these? 20:55:26
2	Drug in Jacksboro, Tennessee. 20:53:39	2	Q. Yes, ma'am. 20:55:27
3	Do you see where I'm at? 20:53:42	3	A. Okay. All right. 20:55:27
4	A. Yes. 20:53:43	4	Q. I'm not going to make you vouch 20:55:27
5	Q. Okay. And then the orange all 20:53:44	5	for my math. 20:55:29
6	the way down at the bottom. 20:53:46	6	A. Okay. 20:55:30
7	A. Yes. 20:53:47	7	Q. But if I tell you that that 20:55:30
8	Q. Okay. So it says oxycodone 20:53:47	8	totals to 279,570 -- 20:55:30
9	30-milligram tablets, and then it would be 20:53:49	9	A. Yes. 20:55:30
10	139,400 tablets were supplied to this 20:53:51	10	Q. -- does that seem like a lot of 20:55:36
11	pharmacy, Riggs, in Jacksboro, Tennessee, by 20:53:56	11	Mallinckrodt opioids to go to one pharmacy to 20:55:38
12	Cardinal Health in the time period of 20:53:59	12	you? 20:55:39
13	November 2011 through November of 2012. 20:54:01	13	A. No, not necessarily. 20:55:39
14	Did I read that correctly? 20:54:04	14	Q. You would want to look at the 20:55:40
15	A. Yes. 20:54:05	15	factors that are on the pharmacy information 20:55:42
16	Q. Okay. And if you go one line 20:54:06	16	sheet; is that right? 20:55:44
17	up, it talks about oxycodone 15-milligram 20:54:09	17	A. Yes. 20:55:44
18	tablets shipped to that Jacksboro Riggs. 20:54:12	18	Q. And the Google Alerts; is that 20:55:44
19	That's 38,700; is that correct? 20:54:16	19	right? 20:55:47
20	A. Yes. 20:54:19	20	A. Yes, and have a conversation 20:55:47
21	Q. Okay. And so if you total 20:54:20	21	with the distributor, yes. 20:55:49
22	that, that would be 178,100 Mallinckrodt 20:54:21	22	Q. Okay. Do you know anything 20:55:50
23	oxycodone pills going to that one pharmacy in 20:54:26	23	about Jacksboro, Tennessee? 20:55:51
24	that time period; is that correct? 20:54:30	24	A. No. 20:55:53
25	A. Yes. 20:54:31	25	Q. Okay. Do you know if Jacksboro 20:55:54
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1	Q. Okay. And the rest of these 20:54:33	1	and La Follette are in the same county? 20:56:01
2	numbers on there, those are the other 20:54:40	2	A. No. 20:56:02
3	controlled substance Mallinckrodt products; 20:54:44	3	Q. What if I told you they are? 20:56:03
4	is that correct? 20:54:47	4	They're in Campbell County, Tennessee. 20:56:04
5	A. Yes. 20:54:47	5	Have you ever heard of Campbell 20:56:06
6	Q. Okay. And many of those are 20:54:48	6	County, Tennessee? 20:56:09
7	opioids as well; is that right? 20:54:51	7	A. No. 20:56:09
8	A. Yes. 20:54:52	8	Q. Okay. Do you know anything 20:56:10
9	Q. Is methylphenidate an opioid? 20:54:53	9	about Campbell County, Tennessee? 20:56:10
10	A. Yes. 20:54:59	10	A. No. 20:56:12
11	Q. Okay. So is everything on this 20:54:59	11	Q. Has Campbell County, Tennessee, 20:56:12
12	list an opioid? 20:55:01	12	ever been a topic of discussion during your 20:56:14
13	A. Yes. 20:55:02	13	professional time at Mallinckrodt? 20:56:16
14	Q. Okay. So if you total all of 20:55:02	14	A. Not that I recall. 20:56:17
15	the opioids then, the Mallinckrodt opioids, 20:55:03	15	Q. Okay. 20:56:19
16	sent to Riggs Drug in Jacksboro, Tennessee, 20:55:05	16	MR. O'CONNOR: We're on the 20:56:38
17	during this time period, that would be 20:55:07	17	12-hour mark. Are you almost done? 20:56:39
18	279,570 Mallinckrodt opioids shipped to this 20:55:10	18	MS. HERZFELD: I am so almost 20:56:43
19	pharmacy during that period of time, I submit 20:55:14	19	done. 20:56:44
20	to you. 20:55:17	20	MR. O'CONNOR: Okay. 20:56:44
21	Does that seem like a lot of 20:55:18	21	MS. HERZFELD: I have, I 20:56:44
22	opioids to one pharmacy to you? 20:55:20	22	think -- I have two very quick charts 20:56:45
23	A. So I'm sorry. You're saying 20:55:23	23	and then like three tiny things to ask 20:56:47
24	that you did the math -- 20:55:25	24	her about. Like I'm probably ten 20:56:49
25	Q. Yes, ma'am. 20:55:25	25	minutes. 20:56:51

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1	Do you want to take a break?	20:56:52	1	for the oxy 15s. Do you see that?	20:59:15
2	MR. O'CONNOR: Not if it's	20:56:54	2	I'll show you the oxy 30s next.	20:59:19
3	going to be ten minutes.	20:56:55	3	A. Yes.	20:59:22
4	MS. HERZFELD: I think it's	20:56:56	4	Q. Okay. And if you look at this	20:59:22
5	going to be ten minutes.	20:56:57	5	spreadsheet, you've got Jellico one, two,	20:59:24
6	MR. O'CONNOR: Okay.	20:56:57	6	three, four times.	20:59:27
7	MS. HERZFELD: I think it's	20:56:57	7	Let's look at the first one.	20:59:27
8	going to be ten minutes. I will try	20:56:58	8	Jellico Drugs.	20:59:30
9	very hard not to lie to you. Okay.	20:56:59	9	Do you see that?	20:59:31
10	MR. O'CONNOR: It's always	20:57:02	10	A. Yes.	20:59:31
11	appreciated.	20:57:04	11	Q. And it looks like Jellico Drugs	20:59:31
12	(Mallinckrodt-Harper Exhibit 56	20:57:05	12	was getting stuff from AmerisourceBergen --	20:59:33
13	marked for identification.)	20:57:06	13	getting oxycodone 15 from AmerisourceBergen	20:59:35
14	QUESTIONS BY MS. HERZFELD:	20:57:06	14	and Masters; is that correct?	20:59:39
15	Q. I will hand you what I'm	20:57:07	15	A. Yes.	20:59:40
16	marking as Plaintiff's Exhibit 56. This is	20:57:08	16	Q. Okay. So during that time	20:59:46
17	MNK_TNSTA25 -- I'm sorry, 02527616.	20:57:14	17	period, it looks like Jellico Drugs received	20:59:48
18	This is -- the title is "Oxy 15	20:57:23	18	14,400 oxycodone 15 tablets from Masters; is	20:59:51
19	and 30 shipped to and sold to via month,	20:57:28	19	that right?	20:59:57
20	January through December 2011." And it looks	20:57:31	20	A. Yes.	20:59:57
21	like the report was run 2/15/2012.	20:57:34	21	Q. And then 12,200 from	20:59:58
22	I will submit to you that we	20:57:37	22	AmerisourceBergen?	21:00:00
23	have condensed this just to Campbell County.	20:57:40	23	A. Yes.	21:00:01
24	Okay. So if you take a look at	20:58:01	24	Q. Okay. And if you go down to	21:00:02
25	this list, I think you'll notice La Follette	20:58:03	25	the others, you have the Rite Aid,	21:00:04
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1	that we've been talking about and also	20:58:05	1	number 1935 in Jellico. They received 2500	21:00:08
2	Jacksboro, which we've already discussed; is	20:58:06	2	oxycodone 15; is that correct?	21:00:13
3	that right?	20:58:09	3	A. Yes.	21:00:15
4	A. Yes.	20:58:09	4	Q. Okay. And then the last one is	21:00:19
5	Q. Okay. And this chart appears	20:58:10	5	the family drug center in Jellico by Cardinal	21:00:20
6	to show you chargeback data to the various	20:58:11	6	Health, and it looks like they received 300	21:00:23
7	pharmacies during the period of January 2011	20:58:13	7	oxy 15s; is that right?	21:00:28
8	through December 2011; is that correct?	20:58:19	8	A. Yes.	21:00:29
9	A. Yes.	20:58:23	9	Q. Okay. So if you add all that	21:00:29
10	Q. Okay. And we haven't talked at	20:58:26	10	together, I'll submit to you that that's	21:00:31
11	all about a place called Jellico.	20:58:29	11	about 29,400 oxycodone 15s for the town of	21:00:33
12	Have you ever heard of Jellico,	20:58:31	12	Jellico.	21:00:40
13	Tennessee?	20:58:32	13	Does that sound right?	21:00:40
14	A. No.	20:58:33	14	A. I have not done the math, but	21:00:41
15	Q. Okay. Okay. On this list I	20:58:33	15	if you say it's true, we'll go with it.	21:00:45
16	think you'll recognize we've got the three	20:58:39	16	(Mallinckrodt-Harper Exhibit 57	21:00:49
17	Riggs Drugs right at the top, right?	20:58:41	17	marked for identification.)	21:00:51
18	A. Yes.	20:58:42	18	QUESTIONS BY MS. HERZFELD:	21:00:51
19	Q. Okay. Riggs Drug in La	20:58:43	19	Q. Okay. I'm going to hand you	21:00:51
20	Follette and Riggs Drug in Jacksboro.	20:58:46	20	what's marked as Plaintiff's Exhibit 56? 6?	21:00:53
21	A. Yes.	20:58:53	21	A. This was 56.	21:00:55
22	Q. Okay. Do you know how many	20:58:54	22	Q. Oh, 57. I left my -- I'll just	21:00:56
23	people live in Jellico, Tennessee?	20:59:07	23	do another one. 57.	21:01:03
24	A. No.	20:59:10	24	Okay. This is the tab -- hold	21:01:04
25	Q. Okay. And this spreadsheet is	20:59:11	25	on. It looks like I'm missing one, so you	21:01:13

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1 might have lucked out. Okay. It appears 21:01:27
 2 that I'm missing the one for the oxy 30. 21:01:45
 3 Okay. 21:01:51
 4 Did you ever run the numbers 21:01:52
 5 for the total number of Mallinckrodt 21:01:58
 6 oxycodone products going to Campbell County, 21:02:00
 7 Tennessee? 21:02:04
 8 A. I do not know. 21:02:04
 9 Q. Okay. I'm going to... 21:02:07
 10 Okay. I'm going to mark you -- 21:02:45
 11 I'm going to hand you what we've marked as 21:02:46
 12 Plaintiff's Exhibit 57. 21:02:48
 13 Okay. Could you read the file 21:02:50
 14 name of this document for me, please, ma'am? 21:02:58
 15 A. "Hydro APAP 10s shipped to and 21:03:00
 16 sold via by month, January 2015 through 21:03:04
 17 December 2015, 325 milligrams APAP." 21:03:08
 18 Q. Okay. Great. 21:03:15
 19 Okay. I'm going to back up for 21:03:15
 20 a second, if you'll set this aside, and we'll 21:03:21
 21 talk about it in just a second. I skipped 21:03:23
 22 some questions. 21:03:25
 23 Going back to our discussion 21:03:26
 24 about Campbell County, do you know what 21:03:27
 25 Campbell County's population was in 2010? 21:03:33

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1 A. No. 21:03:35
 2 Q. Do you know if Mallinckrodt has 21:03:35
 3 ever looked specifically at the number of 21:03:37
 4 pills it sends to the various counties in 21:03:40
 5 Tennessee? 21:03:42
 6 MR. O'CONNOR: Objection. 21:03:42
 7 Form. 21:03:43
 8 QUESTIONS BY MS. HERZFELD: 21:03:43
 9 Q. Have you looked by county? 21:03:44
 10 A. I do not know. 21:03:45
 11 Q. Okay. Did you run any 21:03:45
 12 chargeback reports by county on a routine 21:03:49
 13 basis with Tennessee? 21:03:50
 14 A. No. 21:03:51
 15 Q. Okay. What about towns? 21:03:51
 16 A. The reports can be sorted by 21:03:54
 17 towns -- 21:03:57
 18 Q. Okay. 21:03:58
 19 A. -- but not specific to 21:03:58
 20 Tennessee towns. 21:04:02
 21 Q. Okay. Okay. Had you -- were 21:04:03
 22 you aware that in 2015 Campbell County 21:04:09
 23 prescribed the third highest morphine 21:04:13
 24 equivalent milligrams per capita annually in 21:04:17
 25 the country? 21:04:19

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1 A. No. 21:04:19
 2 Q. Is that a list that 21:04:19
 3 Mallinckrodt would look at? 21:04:21
 4 MR. O'CONNOR: Objection to 21:04:22
 5 form. 21:04:24
 6 THE WITNESS: Not within the 21:04:24
 7 scope of suspicious order monitoring. 21:04:25
 8 QUESTIONS BY MS. HERZFELD: 21:04:28
 9 Q. Okay. So if the CDC lists 21:04:28
 10 counties with the highest prescribing of 21:04:31
 11 opioids per capita, is that something you 21:04:34
 12 would consult in your job in suspicious order 21:04:36
 13 monitoring? 21:04:38
 14 A. No. 21:04:38
 15 Q. Okay. Think it would be 21:04:40
 16 helpful? 21:04:44
 17 MR. O'CONNOR: Objection to 21:04:44
 18 form. 21:04:45
 19 THE WITNESS: We use various 21:04:45
 20 pieces of information at various 21:04:46
 21 times, so I can't compare and contrast 21:04:49
 22 one thing is more helpful than the 21:04:53
 23 other. 21:04:56
 24 QUESTIONS BY MS. HERZFELD: 21:04:56
 25 Q. Okay. I think you looked 21:04:57

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1 before at the chargeback data list, the 21:05:03
 2 chargeback restriction list, Exhibit 36. 21:05:05
 3 It's Mallinckrodt's chargeback restriction 21:05:09
 4 list. If you would take a look at that for 21:05:10
 5 me for one more second. 21:05:14
 6 Are you aware of the number of 21:05:16
 7 pharmacies that were on that list, how many 21:05:19
 8 have been subject of law enforcement action? 21:05:21
 9 A. No. 21:05:23
 10 Q. Okay. Are you aware if any of 21:05:24
 11 the reinstated pharmacies on that list have 21:05:26
 12 been subject of law enforcement action? 21:05:31
 13 A. No. 21:05:32
 14 Q. Okay. And do you know if the 21:05:33
 15 pharmacies on that list, that were placed on 21:05:35
 16 that list, were placed on before or because 21:05:37
 17 of -- I'm sorry, I'm going to back up. I'm 21:05:40
 18 going to strike that question. We're going 21:05:43
 19 to start over. 21:05:44
 20 Do you know of the pharmacies 21:05:45
 21 that were placed on that Mallinckrodt 21:05:48
 22 chargeback restriction list, how many of 21:05:50
 23 those restricted pharmacies were placed on 21:05:55
 24 after law enforcement action? 21:05:58
 25 A. No. 21:06:00

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1 Q. Okay. You can set it aside, 21:06:00
2 please. 21:06:02
3 Have you ever heard of Clay 21:06:03
4 County, Tennessee? 21:06:08
5 A. No. 21:06:09
6 Q. Do you know what the population 21:06:09
7 is of Clay County, Tennessee? 21:06:10
8 A. No. 21:06:12
9 Q. Okay. Has there been any 21:06:12
10 discussion in your professional capacity at 21:06:15
11 Mallinckrodt having to do with Clay County, 21:06:16
12 Tennessee? 21:06:19
13 A. Not that I recall. 21:06:19
14 Q. Okay. If you'll take a look at 21:06:21
15 Exhibit 57 for me, please, ma'am. 21:06:23
16 Okay. You've already 21:06:25
17 identified this document. I will submit to 21:06:27
18 you that we've modified it to show only the 21:06:29
19 town of Celina, Tennessee. 21:06:33
20 If you'll flip to the page, do 21:06:34
21 you recognize this as chargeback data, ma'am? 21:06:37
22 A. Yes. 21:06:40
23 Q. Okay. Looking at this 21:06:40
24 chargeback data, does it indicate to you that 21:06:41
25 Rite Aid number 2494 in Celina, Tennessee, 21:06:43

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1 through McKesson, received 87,000 21:06:55
2 Mallinckrodt hydro APAP 10s? 21:06:59
3 A. Yes. 21:07:05
4 Q. Okay. And then Anderson 21:07:06
5 Hometown Pharmacy received 500 hydro APAP 10s 21:07:10
6 through McKesson; is that right? 21:07:14
7 A. Yes. 21:07:15
8 Q. Okay. And then Cumberland 21:07:15
9 River Hospital, also in Celina, Tennessee, 21:07:18
10 through Cardinal received 200 hydro APAP 10s; 21:07:21
11 is that right? 21:07:24
12 A. Yes. 21:07:24
13 Q. Okay. And that shows, if you 21:07:25
14 total it -- and I think this math is a little 21:07:28
15 easier -- that's 87,700 hydro APAP 10s sent 21:07:30
16 to Celina, Tennessee, that were Mallinckrodt 21:07:38
17 between January 2015 and December of 2015; is 21:07:42
18 that correct? 21:07:45
19 A. Yes. 21:07:45
20 Q. Okay. Did you know that the 21:07:47
21 town of Celina, Tennessee, is -- population 21:07:48
22 is 1,379 people? 21:07:51
23 A. No. 21:07:54
24 Q. Do you think that's an 21:07:55
25 appropriate number of hydro APAP 10s to be 21:07:56

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1 going to a town with 1,379 people? 21:08:01
2 MR. O'CONNOR: Objection to 21:08:04
3 form. 21:08:05
4 THE WITNESS: I don't have 21:08:05
5 enough information to answer. 21:08:06
6 QUESTIONS BY MS. HERZFELD: 21:08:09
7 Q. Okay. And the information that 21:08:09
8 you would want would be the information 21:08:11
9 that's contained on that pharmacy information 21:08:12
10 sheet that we talked about earlier? 21:08:14
11 A. Part of the information, yes. 21:08:16
12 Q. Okay. And the other 21:08:20
13 information would be information that you get 21:08:21
14 from the Google Alerts; is that right? 21:08:23
15 A. Potentially. 21:08:25
16 Q. Okay. And is there any other 21:08:27
17 information you can think of that you'd want 21:08:28
18 to know to make that decision? 21:08:30
19 A. So let's circle back, please. 21:08:31
20 Q. Sure. 21:08:33
21 A. We're talking about Celina, 21:08:33
22 Tennessee. 21:08:35
23 Q. Yes, ma'am. 21:08:35
24 A. And what's -- what's the 21:08:36
25 question again, please? 21:08:37

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1 Q. The question was if you thought 21:08:38
2 that was an appropriate number of hydro APAP 21:08:40
3 pills to be going to that town. 21:08:46
4 A. Okay. And I said I can't 21:08:48
5 answer. I don't have enough information. 21:08:50
6 Q. And so then I said you'd want 21:08:50
7 the information on the pharmacy information 21:08:51
8 sheet that we talked about before in order to 21:08:53
9 make that determination? 21:08:54
10 A. Yes, as one of the factors, 21:08:55
11 yes. 21:08:59
12 Q. And one of the other factors 21:08:59
13 would be the information that you gleaned 21:09:00
14 from Google Alerts? 21:09:01
15 A. Yes. 21:09:02
16 Q. Okay. And is there any other 21:09:03
17 information that you would feel you need to 21:09:04
18 consult? 21:09:08
19 A. Any other information provided 21:09:08
20 to us by the distributors. 21:09:14
21 Q. Okay. 21:09:16
22 A. But, no, nothing other than 21:09:16
23 that. 21:09:19
24 Q. Okay. You can set that aside, 21:09:20
25 please, ma'am. Okay. Done with charts. 21:09:21

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1 (Mallinckrodt-Harper Exhibit 58 21:09:26	1 QUESTIONS BY MS. HERZFELD: 21:11:36
2 marked for identification.) 21:09:27	2 Q. Okay. I'm going to hand you 21:11:36
3 QUESTIONS BY MS. HERZFELD: 21:09:27	3 what I'm going to mark as Exhibit 59, 21:11:48
4 Q. Okay. Number 58. If you'll 21:09:35	4 MNK-TN_000642 -- no, 6462195. 21:11:52
5 take a look at this for me, please. 21:09:49	5 These all got jammed together, 21:12:01
6 Could you please read the 21:09:59	6 guys. Sorry. 21:12:05
7 title? 21:09:59	7 If you'll look with me all the 21:12:07
8 A. "DEA investigators seeking 21:10:00	8 way down to... 21:12:09
9 answers in small Tennessee town." 21:10:05	9 You don't have to read the 21:12:26
10 Q. And what does it say after 21:10:08	10 whole thing, but if you look where Tom -- 21:12:30
11 that? 21:10:10	11 Thomas Duffel -- three-quarters of the way 21:12:34
12 A. There's a header. 21:10:10	12 down the page? 21:12:35
13 Q. Yes, ma'am. 21:10:13	13 A. Yes. 21:12:36
14 A. Drug Enforcement 21:10:14	14 Q. And he, it looks like, sends an 21:12:36
15 Administration. 21:10:15	15 e-mail to you on September 11, 2017, and 21:12:37
16 Q. Okay. So this is a press 21:10:15	16 Debbie Dingle {sic}. 21:12:40
17 release coming from the Drug Enforcement 21:10:16	17 Do you see that? 21:12:42
18 Administration? 21:10:18	18 A. Yes. 21:12:42
19 A. Yes. 21:10:18	19 Q. And the subject is regarding 21:12:43
20 Q. Okay. And then under that it 21:10:19	20 need listing of all current and past narcotic 21:12:46
21 says, "Rural Clay County pharmacies 2017 21:10:26	21 SKUs. 21:12:48
22 purchases from distributors totaled more than 21:10:28	22 Do you see that? 21:12:49
23 1 million pills." 21:10:30	23 A. Yes. 21:12:49
24 Do you see that? 21:10:31	24 Q. Okay. And so his e-mail to you 21:12:50
25 A. Yes. 21:10:31	25 and Debbie is, "Karen/Debbie, just to make 21:12:53
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1 Q. Okay. And then the date line, 21:10:32	1 sure, I'm sending a list of the items that we 21:12:57
2 what is the city and state that it indicates? 21:10:35	2 used to pull the most recent Tennessee orders 21:13:00
3 A. Celina, Tennessee. 21:10:37	3 report. I'm assuming that the list will 21:13:02
4 Q. Okay. And then if you could 21:10:39	4 remain constant as we have requests like 21:13:04
5 read the first sentence for me, please? 21:10:40	5 these. Please let me know if there are any 21:13:07
6 A. "DEA investigators this week 21:10:41	6 issues. Thank you." 21:13:09
7 conducted inspections at several pharmacy 21:10:45	7 Did I read that correctly? 21:13:13
8 locations in the Clay County, Tennessee, 21:10:47	8 A. Yes. 21:13:13
9 town" -- pardon me -- "of Celina following an 21:10:52	9 Q. Okay. Do you know what he's 21:13:14
10 inquiry into irregular patterns of pill 21:10:56	10 talking about? 21:13:16
11 purchases from drug distribution companies." 21:10:58	11 A. Yes. 21:13:16
12 Q. Okay. You can stop there. 21:11:03	12 Q. Okay. What he's talking about? 21:13:16
13 Were you aware of this DEA 21:11:05	13 A. He's determining that he has 21:13:17
14 investigation? 21:11:07	14 the list of all opioid products to pull this 21:13:20
15 A. No. 21:11:07	15 report and other reports. 21:13:22
16 Q. Okay. Thank you, ma'am. You 21:11:07	16 Q. For Tennessee orders? 21:13:24
17 can set that aside. 21:11:09	17 A. In this case, yes. 21:13:25
18 Okay. In 2017, did you start 21:11:20	18 Q. Okay. And do you know why he 21:13:28
19 working on pulling Tennessee order reports? 21:11:25	19 was pulling Tennessee orders? 21:13:29
20 MR. O'CONNOR: Objection. 21:11:27	20 A. No. 21:13:30
21 Form. 21:11:28	21 Q. You don't? 21:13:31
22 THE WITNESS: I don't know. 21:11:28	22 A. No. 21:13:32
23 (Mallinckrodt-Harper Exhibit 59 21:11:35	23 Q. Okay. Was -- did anybody ever 21:13:32
24 marked for identification.) 21:11:36	24 talk to you about pulling Tennessee orders? 21:13:36
25	25 A. Clearly they did, but this 21:13:37

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<p>1 could have been a request by -- by counsel. 21:13:41</p> <p>2 Q. Okay. Can you think of any 21:13:51</p> <p>3 other reason there would have been a request 21:13:53</p> <p>4 to pull Tennessee numbers? 21:13:55</p> <p>5 A. A subpoena, request from 21:13:57</p> <p>6 counsel, those type of things. 21:14:03</p> <p>7 Q. Okay. 21:14:04</p> <p>8 A. Yes. 21:14:04</p> <p>9 Q. Okay. 21:14:08</p> <p>10 (Mallinckrodt-Harper Exhibit 60 21:14:17</p> <p>11 marked for identification.) 21:14:21</p> <p>12 MR. O'CONNOR: For the record, 21:14:21</p> <p>13 I think we're closing in on 21:14:22</p> <p>14 20 minutes. 21:14:24</p> <p>15 MS. HERZFELD: Oh, my gosh, 21:14:24</p> <p>16 really? I thought I was doing so 21:14:25</p> <p>17 well. I'm so sorry. So close. 21:14:28</p> <p>18 QUESTIONS BY MS. HERZFELD: 21:14:32</p> <p>19 Q. Okay. I'm going to hand you 21:14:34</p> <p>20 60, and I think there's only one after this 21:14:35</p> <p>21 one. 21:14:37</p> <p>22 Okay. I'm going to hand you 21:14:38</p> <p>23 what's been marked as Plaintiff's Exhibit 60, 21:14:40</p> <p>24 and that is MNK-T1_0007185456. Okay. It is 21:14:45</p> <p>25 a two-page document. 21:15:03</p>	<p>1 A. Yes. 21:16:07</p> <p>2 Q. Okay. "David, that will take 21:16:08</p> <p>3 an additional day or two to complete. You'll 21:16:13</p> <p>4 have it no later than Friday COB. I'm 21:16:14</p> <p>5 waiting on slide input from David Hunter. 21:16:15</p> <p>6 Don has slammed me last night and today with 21:16:18</p> <p>7 work for the Tennessee matter and DEA meeting 21:16:19</p> <p>8 prep. Sorry." 21:16:21</p> <p>9 What is the Tennessee matter? 21:16:22</p> <p>10 A. So I don't know specifically 21:16:24</p> <p>11 what the Tennessee matter is or was. 21:16:27</p> <p>12 Q. Okay. What was the DEA meeting 21:16:31</p> <p>13 prep? 21:16:33</p> <p>14 A. I don't know. I don't recall. 21:16:34</p> <p>15 Q. Okay. All right. And have you 21:16:36</p> <p>16 read the complaint in the Tennessee matter? 21:16:48</p> <p>17 A. No. 21:16:50</p> <p>18 Q. Okay. But it was sent to you; 21:16:51</p> <p>19 is that right? 21:16:54</p> <p>20 A. I'm not certain of that. 21:16:54</p> <p>21 (Mallinckrodt-Harper Exhibit 61 21:16:57</p> <p>22 marked for identification.) 21:16:58</p> <p>23 QUESTIONS BY MS. HERZFELD: 21:16:58</p> <p>24 Q. I'm going to give you our very 21:17:04</p> <p>25 last exhibit, which is 61. I'm handing you 21:17:05</p>
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<p>1 Do you recognize this as an 21:15:04</p> <p>2 e-mail chain between you and David Widder? 21:15:05</p> <p>3 A. Yes. 21:15:08</p> <p>4 Q. Dated over the course of June 21:15:10</p> <p>5 2017? 21:15:14</p> <p>6 A. Yes. 21:15:14</p> <p>7 Q. Okay. Who is David Widder? 21:15:16</p> <p>8 A. He -- he was another person to 21:15:18</p> <p>9 whom my group reported. 21:15:22</p> <p>10 Q. Okay. What was his position? 21:15:24</p> <p>11 A. His title has changed over 21:15:25</p> <p>12 time, but he's in -- supply chain is the name 21:15:28</p> <p>13 of his group. 21:15:31</p> <p>14 Q. Okay. And so if you'll go down 21:15:33</p> <p>15 with me, it looks like David Widder is saying 21:15:35</p> <p>16 to you in the second e-mail down, Wednesday, 21:15:41</p> <p>17 June 14, 2017, "No worries. If we can 21:15:43</p> <p>18 complete by the end of the week, we'll be in 21:15:46</p> <p>19 a good spot. The DEA meeting prep and 21:15:47</p> <p>20 Tennessee matter are both more pressing." 21:15:51</p> <p>21 Do you see that? 21:15:53</p> <p>22 A. Yes. 21:15:54</p> <p>23 Q. And he is responding to you -- 21:15:55</p> <p>24 it's an e-mail, it looks like, earlier that 21:15:58</p> <p>25 day? 21:16:03</p>	<p>1 what is marked as Plaintiff's Exhibit 61. 21:17:17</p> <p>2 Okay. This appears to be an 21:17:19</p> <p>3 e-mail from Don Lohman and John Gillies and 21:17:28</p> <p>4 you dated June 14, 2017; is that right? 21:17:33</p> <p>5 A. Yes. 21:17:35</p> <p>6 Q. Okay. And it says, filed 21:17:39</p> <p>7 complaint 6/13/2017, and this was e-mailed to 21:17:42</p> <p>8 you 6/14/2017; is that right? 21:17:47</p> <p>9 A. Yes, I see that. 21:17:48</p> <p>10 Q. Okay. And I just copied the 21:17:49</p> <p>11 first page of our complaint because it's 21:17:51</p> <p>12 really super long. 21:17:52</p> <p>13 A. Okay. 21:17:53</p> <p>14 Q. Did you ever read it? 21:17:54</p> <p>15 A. No. 21:17:55</p> <p>16 Q. Okay. You received it, but you 21:17:56</p> <p>17 didn't read it? 21:17:58</p> <p>18 A. It's clear that I received it. 21:17:58</p> <p>19 I don't recall receiving it, and I don't 21:18:00</p> <p>20 recall reading it. 21:18:02</p> <p>21 Q. Okay. And so when we were 21:18:03</p> <p>22 talking before about the Tennessee matter, 21:18:04</p> <p>23 could it have been the filing of our 21:18:06</p> <p>24 complaint that was the matter? 21:18:09</p> <p>25 MR. O'CONNOR: Objection to 21:18:10</p>

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1	form.	21:18:10	1	QUESTIONS BY MR. O'CONNOR:	21:20:19
2	THE WITNESS: I can't answer	21:18:10	2	Q. Okay. For those companies that	21:20:20
3	that question.	21:18:11	3	submit chargeback requests, are all orders	21:20:22
4	QUESTIONS BY MS. HERZFELD:	21:18:11	4	that those companies receive reflected in	21:20:26
5	Q. You can't answer because you	21:18:12	5	those requests?	21:20:28
6	don't know or because it's privileged?	21:18:13	6	A. No.	21:20:30
7	A. Oh, because I don't know.	21:18:14	7	Q. Okay. Mallinckrodt	21:20:32
8	Q. Oh, okay. Very good.	21:18:16	8	manufactures methylphenidate, correct?	21:20:39
9	A. Sorry.	21:18:20	9	A. Yes.	21:20:44
10	MS. HERZFELD: Okay. I don't	21:18:27	10	Q. Do you know what	21:20:45
11	think I have any other questions.	21:18:28	11	methylphenidate is used to treat?	21:20:46
12	MR. O'CONNOR: Excellent. Can	21:18:30	12	A. Attention-deficit/hyperactivity	21:20:48
13	we go off the record?	21:18:32	13	disorder.	21:20:52
14	VIDEOGRAPHER: We are going off	21:18:33	14	Q. Okay. Is it used to treat	21:20:52
15	the record at 9:18 p m.	21:18:34	15	pain, as far as you know?	21:20:54
16	(Off the record at 9:18 p m.)	21:18:36	16	A. I do not know.	21:20:56
17	VIDEOGRAPHER: We are back on	21:19:09	17	Q. Okay. Is methylphenidate an	21:20:56
18	the record at 9:19 p m.	21:19:15	18	opioid?	21:21:00
19	CROSS-EXAMINATION	21:19:19	19	A. It's a, yes, a synthetic	21:21:01
20	QUESTIONS BY MR. O'CONNOR:	21:19:19	20	opioid, yes.	21:21:03
21	Q. Ms. Harper, considering the	21:19:20	21	Q. It's a synthetic opioid. Okay.	21:21:03
22	hour, I'll keep this very brief. Just a few	21:19:20	22	And do you have any scientific	21:21:10
23	questions.	21:19:23	23	background on which you're basing that	21:21:11
24	Earlier today you testified	21:19:23	24	statement?	21:21:16
25	about the scope of information provided	21:19:25	25	A. No scientific background, no.	21:21:16
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1	through chargeback requests.	21:19:27	1	Q. Just a few minutes ago you	21:21:17
2	Do you generally recall	21:19:28	2	discussed with Ms. Herzfeld a number of	21:21:21
3	testifying on that issue?	21:19:30	3	charts, including those labeled -- or marked	21:21:26
4	A. Yes.	21:19:31	4	Exhibits 40 through 57, roughly.	21:21:30
5	Q. I just want to ask a few	21:19:32	5	Do you remember the charts I'm	21:21:33
6	questions so the record is clear on this.	21:19:37	6	referring to?	21:21:34
7	Does chargeback data allow	21:19:39	7	A. Yes.	21:21:35
8	Mallinckrodt visibility into all the sales of	21:19:41	8	Q. Okay. And many of those charts	21:21:38
9	its products made by distributor customers?	21:19:43	9	purported to reflect chargeback data; is that	21:21:44
10	A. No.	21:19:48	10	your understanding?	21:21:47
11	Q. Do all distributor customers	21:19:48	11	A. Yes.	21:21:48
12	submit chargeback information?	21:19:52	12	Q. Do you have any independent	21:21:49
13	A. Yes.	21:19:53	13	recollection of the chargeback numbers that	21:21:53
14	Q. Do all customers of	21:19:54	14	you saw in any of those charts?	21:21:58
15	Mallinckrodt product submit chargeback	21:19:56	15	A. No.	21:22:00
16	requests?	21:19:59	16	Q. So from time to time when you	21:22:02
17	A. No.	21:20:01	17	indicated to Ms. Herzfeld that you thought	21:22:07
18	Q. And of those Mallinckrodt	21:20:03	18	certain numbers were correct, did you have	21:22:09
19	customers that do from time to time submit	21:20:05	19	any basis for saying that other than seeing	21:22:11
20	chargeback requests, do they submit	21:20:08	20	those numbers on the page -- on the document	21:22:14
21	chargeback requests for every order they	21:20:12	21	that she provided you?	21:22:16
22	receive?	21:20:16	22	MS. HERZFELD: Object to the	21:22:17
23	MR. KO: Object to the form.	21:20:16	23	form.	21:22:19
24	THE WITNESS: I don't know the	21:20:17	24	THE WITNESS: No.	21:22:19
25	answer.	21:20:19	25		

<p style="text-align: right;">Page 614</p> <p>1 QUESTIONS BY MR. O'CONNOR: 21:22:20</p> <p>2 Q. With respect to any numbers 21:22:21</p> <p>3 that you indicated to Ms. Herzfeld that were 21:22:24</p> <p>4 correct, do you have any basis to believe 21:22:27</p> <p>5 that they were correct aside from -- aside 21:22:29</p> <p>6 from the numbers on the document? 21:22:31</p> <p>7 MS. HERZFELD: Object to the 21:22:33</p> <p>8 form. 21:22:34</p> <p>9 THE WITNESS: No. 21:22:34</p> <p>10 MR. O'CONNOR: What's the 21:22:35</p> <p>11 objection? 21:22:37</p> <p>12 MS. HERZFELD: It's convoluted. 21:22:38</p> <p>13 QUESTIONS BY MR. O'CONNOR: 21:22:42</p> <p>14 Q. Okay. Do you recall responding 21:22:42</p> <p>15 to Ms. Herzfeld that certain numbers she 21:22:43</p> <p>16 presented to you were -- appeared to be 21:22:47</p> <p>17 correct? 21:22:48</p> <p>18 A. Yes. 21:22:49</p> <p>19 Q. With respect to those numbers, 21:22:49</p> <p>20 do you have any independent basis to believe 21:22:52</p> <p>21 they are correct? 21:22:54</p> <p>22 A. No. 21:22:55</p> <p>23 MR. O'CONNOR: Okay. That's 21:22:58</p> <p>24 all I have. 21:22:58</p> <p>25 MS. HERZFELD: I have one 21:22:58</p>	<p style="text-align: right;">Page 616</p> <p>1 MS. HERZFELD: I'll read the 21:23:49</p> <p>2 number in. 21:23:50</p> <p>3 MR. KO: Thank you. 21:23:50</p> <p>4 MS. HERZFELD: It's 21:23:51</p> <p>5 MNK-T1_0000387492. 21:23:54</p> <p>6 QUESTIONS BY MR. KO: 21:23:58</p> <p>7 Q. Ms. Harper, just a moment ago 21:24:03</p> <p>8 Mr. O'Connor was asking you about whether or 21:24:05</p> <p>9 not -- well, was asking you about chargeback 21:24:10</p> <p>10 information. 21:24:12</p> <p>11 Do you recall that? 21:24:13</p> <p>12 A. Yes. 21:24:13</p> <p>13 Q. And the document you have in 21:24:13</p> <p>14 front of you is an e-mail that you sent to 21:24:17</p> <p>15 someone at DEA regarding access and your 21:24:19</p> <p>16 utilization of chargeback info; is that 21:24:24</p> <p>17 correct? 21:24:26</p> <p>18 A. Yes. 21:24:26</p> <p>19 Q. And at the very end of that 21:24:26</p> <p>20 e-mail, there's a portion that's underlined. 21:24:29</p> <p>21 Do you mind reading that into 21:24:31</p> <p>22 the record? 21:24:33</p> <p>23 A. "That said, Mallinckrodt 21:24:33</p> <p>24 assumes that most transactions would result 21:24:38</p> <p>25 in a chargeback request." 21:24:40</p>
<p style="text-align: right;">Page 615</p> <p>1 question on redirect. 21:22:59</p> <p>2 REDIRECT EXAMINATION 21:22:59</p> <p>3 QUESTIONS BY MS. HERZFELD: 21:22:59</p> <p>4 Q. Based on those numbers we went 21:23:02</p> <p>5 over, do you have any reason to think that 21:23:03</p> <p>6 they'd be incorrect? 21:23:05</p> <p>7 A. I don't know the answer, no. 21:23:07</p> <p>8 MS. HERZFELD: Okay. Thank 21:23:11</p> <p>9 you. 21:23:13</p> <p>10 MR. KO: I'm sorry, folks, but 21:23:13</p> <p>11 I have one question, of course, in 21:23:14</p> <p>12 light of your redirect, and I have to 21:23:18</p> <p>13 use a document for it. 21:23:20</p> <p>14 (Mallinckrodt-Harper Exhibit 62 21:23:26</p> <p>15 marked for identification.) 21:23:27</p> <p>16 REDIRECT EXAMINATION 21:23:27</p> <p>17 QUESTIONS BY MR. KO: 21:23:28</p> <p>18 Q. So I'm going to hand you a copy 21:23:22</p> <p>19 of what will be marked as -- I don't know 21:23:23</p> <p>20 what exhibit we're on -- 63? Oh, 62. Okay, 21:23:25</p> <p>21 62. 21:23:38</p> <p>22 And that's the -- 21:23:38</p> <p>23 unfortunately, that's the only copy of the 21:23:39</p> <p>24 exhibit I have. 21:23:41</p> <p>25 MR. KO: Tricia, do you mind -- 21:23:45</p>	<p style="text-align: right;">Page 617</p> <p>1 Q. Okay. And do you have any 21:24:42</p> <p>2 reason to dispute that you wrote that 21:24:45</p> <p>3 language to the DEA on November 1, 2010? 21:24:47</p> <p>4 A. No. 21:24:50</p> <p>5 MR. KO: Okay. That's all I 21:24:51</p> <p>6 have. 21:24:52</p> <p>7 MR. O'CONNOR: All right. We 21:24:54</p> <p>8 can go off the record. 21:24:55</p> <p>9 VIDEOGRAPHER: We are going off 21:24:56</p> <p>10 the record at 9:24 p m. 21:24:57</p> <p>11 (Deposition concluded at 9:24 p m.) 21:24:58</p> <p>12 -----</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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